



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

OFFICE OF
AIR AND RADIATION

April 29, 2002

CCD-02-07 (ICI)

Dear Independent Commercial Importer:

SUBJECT: ICI material handed out at the March 27, 2002 workshop

For those Independent Commercial Importers that could not attend the workshop, this letter provides the handout materials that were distributed to the workshop attendees. Please use this material as ready reference to help answer questions that may occur during your work.

In the workshop, we discussed many aspects of the ICI program from start to finish. As explained in the workshop, the information provided in the handouts was intended to clarify the ICI regulations and also to give EPA's policy concerning those regulations. The enclosed material is not intended to replace the applicable regulations. If there are any discrepancies between the enclosed material and the regulations, the regulations take precedence. Please note that the enclosures include some portions of 40 CFR Part 85 regulations but not Part 86. As you know, we expect all ICI's to have a thorough understanding of Part 85 and Part 86 regulations prior to starting the EPA certification process.

If there are any questions about the ICI program please contact Frank Lamitola at (734) 214-4479.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory A. Green".

Gregory A. Green, Director
Certification and Compliance Division
Office of Transportation and Air Quality

Enclosures



Printed on Recycled Paper

**Certification & Compliance Process
for
Independent Commercial Importers
(LDV, LDT and Motorcycles)**

1. Send a letter to EPA which briefly describes your company's plans and request an initial communication package for small volume manufacturers and Independent Commercial Importers (ICI's)¹.
2. Send a letter to EPA containing answers to the 14 questions found in section "C" of the initial communication letter (from step 1 above). If the answers are satisfactory, EPA will assign new ICI's a unique manufacturer identification number and test group manufacturer code.
3. If necessary, request from EPA (through the Freedom of Information Act process) the non-confidential sections of the Part 1/Part 2 application for certification, for the vehicles you intend to certify. Alternatively, this information may be obtained from other sources, such as working with the OEM vehicle manufacturer.
4. Begin preparing a Part 1 application for certification which contains the required information under the CAP 2000 requirements as it pertains to ICI vehicle conversions. See the attachments:
 - A) Example format and guidelines for Application for Certification, ref. VPCD-99-06, April 22, 1999.
 - B) Example ICI Summary Sheets for their Application ref. CCD-02-04, February 6, 2002.
5. Locate a testing laboratory and determine if it will meet your needs. Evaluate the laboratory's current test capabilities and it's ability to meet the EPA's requirements. EPA does not approve or certify laboratories, but does provide a list of independent vehicle emissions contract laboratories at www.epa.gov/otaq/consumer/lablist.pdf.
6. Submit fee waiver request letter and the fee filing form to EPA for approval. Once approved by EPA, submit the fee payment (and a fee filing form) to the U.S. Treasury, reference EPA guidance letter CD-92-07, July 7, 1992 and www.epa.gov/otaq/fee.htm.
7. Submit ORVR information outlined in EPA guidance letters VPCD-98-15, December 21, 1998 and CCD-00-10, August 3, 2000. (Not required for motorcycles)
8. Include a description of the OBD II system in the Part 1 application. Alternatively the ICI may submit a letter to EPA requesting advance approval of the OBD system. (Not required for motorcycles)
9. Perform all required certification emission tests and submit a test request sheet to EPA,

¹If you wish to become an ICI and your company name begins with:
"A thru G" contact Bruce Sdunek 734-214-4733; "H thru O" contact Bernd Liebner 734-214-4426;
"P thru Z" contact Fred Hart 734-214-4877." If you are continuing certification for the next
calendar year, contact the EPA representative assigned to your company.

reference CCD-00-02, March 27, 2000. If EPA has selected this vehicle for confirmatory testing, you will be required to provide the vehicle to EPA's Ann Arbor, Michigan laboratory.

10. Submit the completed Part 1 Application to EPA, preferably on CD. This should contain detailed description of the emission-related components and copies of :
 - Fee Filing Form (Do not send a copy of the check)
 - OBD II approval letter (if already approved by EPA)
 - EPA's approval of the ORVR system per CD-98-15 and CD-00-10
 - Summary sheet, ref. CCD-02-04
11. Obtain an EPA Certificate for Conformity for the vehicle engine family/test group and evaporative refueling family combination.
12. Build/modify the vehicles. Affix under-hood labels and window stickers on all vehicles. For certified vehicles entering the U.S. under 85.1505, test every 3rd vehicle (up to 300), or test every 5th vehicle (301 and over). For mod/test vehicles entering the U.S. under 85.1509, test every vehicle.
13. Submit the Final Entry Form to EPA for a 15 day holding period. Pay additional fees if necessary.
14. Supply the customer with the information required in 40 CFR 85.1510 (e.g. owners manuals, emission warranty booklet, and warranty insurance policy). For vehicles not owned by the ICI, furnish the customer with the gas guzzler tax form.
15. Submit final Part 1/Part 2 application to EPA at the completion of the model year preferably on CD, per 40 CFR 86.1844-01(e)(4).
16. Submit defect reports, voluntary emission related recall reports, and quarterly reports to EPA during the useful life of the vehicle as they occur, ref 40 CFR 85.1901- 1904.
17. Pay the gas guzzler tax to the IRS, for vehicles owned or offered for resale by the ICI, as required by 40 CFR 85.1510 (e).
18. Submit CAFE report to EPA, as required by 40 CFR 85.1510 (f) & 40 CFR 600.501-512.

Independent Motor Vehicle Emissions Contract Laboratories

<u>Name of Laboratory</u>	<u>Street</u>	<u>City</u>	<u>St.</u>	<u>ZIP</u>	<u>Telephone</u>	<u>Contact</u>
Automobile Club of Southern California	2601 S. Figueroa St.	Los Angeles	CA	90007	(213) 741-3378	Steve Mazor
Automotive Research & Testing, Inc.	1 Mary Lane	Greenvale	NY	11548	(516) 588-9666	Peter Dibernardi
Automobile Testing & Development Service	400 S. Etiwanda Ave.	Ontario	CA	91761	(909) 390-1100	Linwood Farmer
Automotive Testing Labs., Inc.	263 S Mulberry St	Mesa	AZ	85202	(480) 649-7906	Greg Barton
Automotive Testing Labs., Inc.	P.O. Box 289	East Liberty	OH	43319	(513) 666-4351	Greg Barton
AVL Powertrain Engineering, Inc.	47519 Halyard Drive	Plymouth	MI	48170-2438	(734)414-9618	Peter D. Church
California Analytic Instruments, Inc.	1238 W. Grove Ave.	Orange	CA	92865-4134	(714) 974-5560	Matt Swanson
California Environmental Engineering	3231 S. Standard	Santa Anna	CA	92705	(714) 545-9822	Jeana
Clean Air Vehicle Tech. Center	3967 Trustway	Hayward	CA	94545	(510) 785-3100	Boonchanh Oupaxay
Colorado School of Mines		Golden	CO	80401	(303) 273-3967	
Colorado State University		Fort Collins	CO	80523	(970) 491-7240	Birgit Wolf
Compliance and Research Services	2 Garfield St	Linden	NJ	07036	(908) 925-5533	Robert DePalma
Cosworth Technology, Inc.	41000 Vincenti Court	Novi	MI	48375	(248)471-5000	Dale Henriksen
ECologic Engine Testing Laboratories	1370 S. Acacia Ave.	Fullerton	CA	92831	714-774-3385	Larry Swiencki
Environmental R & D Corp.	9607 Dr. Perry Road	Ijamsville	MD	21754	(301) 607-4416	Peter Lissiuk
Environmental Testing Corp.	2022 Helen St.	Aurora	CO	80011	(303) 344-5470	Gerard Glinsky
GM - LA Powertrain Vehicle Emission Lab	14411 Cabrito Road	Panorama City	CA	91402	(818) 997-5500	David Pitschel
GM Powertrain Vehicle Emissions Lab.	3300 GM Road	Milford	MI	48380-3726	(248) 685-5268	Bill Langhorst
Lotus Engineering, Inc.	1254 N. Main	Ann Arbor	MI	48107	(734) 995-2544	John Briggs
Mercedes-Benz Service Corp.	3953 Research Park Dr.	Ann Arbor	MI	48108	(734) 995-3066	Giedrius Ambrosaitis
Northern California Diagnostic Lab, Inc.	2748 Jefferson St.	Napa	CA	94558	(707) 258-1753	Michael Spencer-Smith
PerkinElmer Automotive Research, Inc.	5404 Bandera	San Antonio	TX	78238	(210) 523-4605	Dean Schoppe
Roush Emissions Laboratory	12249 Levan Rd.	Livonia	MI	48150	(734)779-7002	Cesar Flores
Siemens Automotive Corporation	2400 Executive Hills Dr.	Auburn Hills	MI	48321	(248) 253-1000	Thierry Cavanie
Southwest Research Institute	6220 Culebra Road	San Antonio	TX	78238	(210) 522-2646	Charles Hare
Testing Services Inc.	132 Penn	Telford	PA	18969	(215) 721-2188	Robert Marino
University of California	1200 Columbia St.	Riverside	CA	92507	(909) 781-5737	Dave Martis
Wallace Environmental Testing Lab	2140 Wirtcrest	Houston	TX	77055	(713) 956-7705	Les Weaver
Wallace Lab. Analytical Lab	14750 Wallace St.	Harvey	IL	60426	(708) 210-9989	

Updated 3/07/02

Note: EPA does not endorse, rate or certify individual vehicle emission test laboratories. It is the responsibility of the individual customer to evaluate a laboratory's current test capabilities and quality. Although this list is updated as we receive new information, other laboratories may exist that can perform emissions testing. For further information about this listing call the EPA National Vehicle and Fuels Emission Laboratory at (734) 214-4500



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OFFICE OF
AIR AND RADIATION

April 22, 1999

VPCD-99-06 (LDV, LDT, SVM)

Dear Manufacturer,

SUBJECT: CAP 2000 Implementation: Guidance Documents and
Workshop

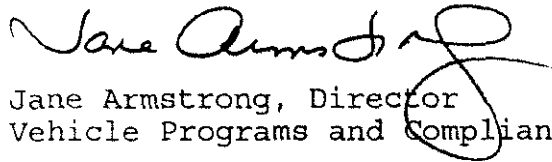
As you are likely aware, the CAP 2000 final rule was signed by the Administrator on March 15, 1999. This rule significantly restructures the emission certification procedures for light-duty vehicles and light-duty trucks. Included in the rule are requirements for grouping and testing vehicles and for reporting information to EPA. During the rulemaking process, manufacturers requested that EPA provide additional guidance on implementing aspects of the CAP 2000 procedures. To this end, we have developed the enclosed guidance document, which covers the following topics:

1. When should I submit an application?
2. How do I obtain a certificate while confirmatory testing is pending?
3. Standardized group name.
4. Electronic submission of applications.
5. CFEIS and CAP 2000.
6. Early opt-in for MY 2000.
7. Using aged components on EDVs.
8. Selection criteria for manufacturer-performed confirmatory certification testing (including a sample test waiver check sheet).
9. Suggested format for the Application for Certification.

To get CAP 2000 off to a running start, we would like to invite you and any other key personnel to attend a workshop, to be held in Ann Arbor on May 18, 10:00AM until no later than 3:00PM at the Morris J. Lawrence Building of the Washtenaw Community College (this is the same location as some of EPA's previous CFEIS workshops). We will go over the guidance documents, and will include ample opportunity for you to ask questions about the implementation of the CAP 2000 rule. We are asking that you review the enclosed information, and submit in advance your questions about them by May 7th, so that we have time to respond to them. Of course you may ask questions at the workshop, but we may not be able to answer them immediately. While the focus of this workshop will be on pre-production certification, you may submit questions about the in-use verification program as well. If needed, we will issue a separate guidance document on in-use testing.

Please send your workshop questions to Linda Hormes, preferably via e-mail "hormes.linda@epa.gov", or call 734-214-4502. You should continue to direct specific certification and fuel economy questions to your certification team representative.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Armstrong". The signature is fluid and cursive, with a large loop at the end.

Jane Armstrong, Director
Vehicle Programs and Compliance Division

Attachments

-CAP 2000 GUIDANCE-

When should I submit an Application?

You must submit a complete Part 1 application to obtain a certificate of conformity. Please do not submit a partial application. All information and data, including confirmatory testing, should be present in the application. All CFEIS information including the summary sheet should be entered and correct prior to submission of the application. Incomplete applications or inaccurate CFEIS data will result in significant delays. We expect to be able to review and respond to completed applications within two to four weeks.

How do I Obtain a Certificate while Confirmatory Testing is Pending?

It is possible to obtain a certificate of conformity when EPA-ordered confirmatory testing is still pending completion. This option is not available for manufacturer-conducted confirmatory testing.

A certificate issued without EPA confirmatory test data is "conditional" as explained in 86.1835-01 (d).

To obtain a conditional certificate under these circumstances:

Tell your cert team member that you wish to obtain a conditional certificate without EPA confirmatory test data.

Complete the CFEIS summary sheet using manufacturer data. A new conditional cert code will be added to one of the Summary Sheet input records to indicate that EPA confirmatory testing is pending.

Submit an application containing all information available, a statement that confirmatory test data is pending, and that you wish to obtain a certificate of conformity under the provisions of 86.1835-01(d). Place a statement to that effect on the cover sheet as well.

We will issue a conditional certificate. This certificate will be your permanent certificate and it will not be reissued after the confirmatory testing was completed.

Once the EPA confirmatory testing has been completed, contact your cert team member to unlock the summary sheet. Update the summary sheet to remove the manufacturer data it and replace it with the EPA confirmatory data (if appropriate). Once all the

data is correct, change the conditional cert code on the summary sheet to "confirmatory test complete and entered". You will receive a new summary sheet with an appropriate statement indicating that the confirmatory test was completed; keep this copy for your records. We will not issue a new certificate.

Standardized Durability Group Name

Durability groups should be named using the 12-character format as follows:

Character Number	Description
1	Model year -- Use the same codes as test group
2,3,4	MFR -- Use the same letter codes as test group
5	Combustion cycle -- See table below
6	Engine type -- See Table Below
7	Primary fuel used -- See table below
8	Second fuel used -- Use this field for dual fueled, flexible fueled, and bi-fuel vehicles
9	Third fuel used -- Use this field for dual fueled, flexible fueled, and bi-fuel vehicles
10,11,12	Open, for manufacturer use (catalyst code)

Cycle Code for Durability Group Name

Cycle	Code
Otto Cycle - two stroke	2
Otto Cycle - four stroke	G
Diesel Cycle - two stroke	A
Diesel Cycle - four stroke	D
Dedicated Electric	E
Hybrid Electric with Otto cycle - 4 stroke engine	H
Electric - fuel cell	C

Engine Type Code for Durability Group Name

Engine Type	Code
Piston	P
Rotary	R
Electric	E
Hybrid Electric	H

Fuel Code for Durability Group Name

Fuel Used	Code
Gasoline	G
Diesel	D
Methanol	M
Ethanol	E
CNG	C
LNG	L
LPG	P
Electric	E
Hybrid Electric	Use Code for Other Fuel
Not Applicable (used for second and third fuels)	N

Electronic Submission of Applications

We are seeking several volunteers to participate in a program to develop a procedure to electronically submit application information. We believe that the technology exists commercially (such as Adobe Acrobat) to allow transfer of information created in essentially any computer program without any significant burden.

Electronic submission represents savings to both manufacturers and EPA:

- Reduce the amount of paper generated
- Improve the submission process

Aid EPA's review of the application
Safeguard confidential information
Improve access to the information

Contact Eldert Bontekoe or Linda Hormes to volunteer for this program.

CFEIS and CAP 2000

We are currently modifying CFEIS to handle CAP 2000 for the 2001 model year. The basic design of CFEIS will remain the same. The ESI sheet is being expanded to contain information for both durability and test groups. A few fields are being moved from the ESI sheet to the VI sheet. A few new codes are being added to handle CAP 2000 options (such as aged components, durability group, and conditional certificates). We will present an outline of the changes at the workshop.

Early Opt-in for MY 2000

The regulations allow manufacturers to optionally use the CAP 2000 procedures in the 2000 model year (early opt-in) prior to its mandated use in the 2001 model year.

To be eligible for early opt in:

You must meet all requirements of the CAP 2000 program (Subpart S) to be eligible for early opt in. This includes the durability and test grouping procedures, new durability requirements, and in-use testing requirements.

Procedures for early opt in:

Tell your certification team representative that you intend to use the CAP 2000 procedures for the 2000 model year for certain test groups which you specify.

Pay the CAP 2000 certification fee for each test group.

Enter the correct information into CFEIS. There are several new fields for CAP 2000 data entry in the 2000 model year. Refer to the CMUG on EPA's Internet page for the changed fields and instruction for their entry.

You should use the current engine family name as the CAP 2000 test group name. Use the code "X" in the fifth character if you are including both cars and LDT1's in the same test group.

Use the application format contained in this letter.

Using Aged Components on EDV's

The regulations allow the use of aged components on EDV's in lieu of adjusting emission data by DF's for exhaust emissions (ref 86.1823-01(a)(3)(ii)).

When using this procedure, manufacturers should age the correct hardware for the emission data vehicle using the procedures developed for the durability group (e.g., 300 hours of RDP1). Separate components should be aged for the intermediate and full useful life mileages. Optionally, you may use components aged to full useful life to demonstrate compliance with both intermediate and full useful standards.

Fuel economy and aged components: Manufacturers should run fuel economy tests with aged components to demonstrate emission compliance, unless we approve another procedure which would demonstrate that fuel economy vehicles pass emission standards when tested.

-CAP 2000 GUIDANCE-

Manufacturer-Conducted Confirmatory Certification Testing

Section 86.1835-01(b) of the CAP 2000 regulations requires manufacturers to perform confirmatory certification testing using criteria specified by EPA. This guidance document presents the procedures you should follow to implement this testing program, the criteria which you will use to determine the need to perform confirmatory testing, and the procedures for determining when you will need to perform retests for fuel economy purposes. You should begin using these new procedures beginning June 1, 1999 for CAP 2000 programs (including early opt-in). The goal with these procedures is to reduce the amount of EPA confirmatory testing and to expedite EPA's processing of test requests, while maintaining an acceptable level of EPA testing to ensure correlation.

Procedures:

1. First, prepare a Test Request Sheet for each EDV and FEDV tested for emission and fuel economy compliance. (A new Test Request Sheet is attached to this document.)
2. As you fill out the Test Request Sheet, determine which vehicles will be subject to manufacturer confirmatory testing, using the criteria listed below.
3. Submit the completed Test Request Sheets to EPA. **Do not perform confirmatory testing until EPA responds to the Test Request submission.**
4. EPA will then either select the vehicle for EPA confirmatory testing or will waive the vehicle, and notify you promptly of the outcome.
5. If EPA selects the vehicle for confirmatory testing, you do not need to confirmatory test the procedure(s) which EPA performs (but you may need to confirmatory test procedures which EPA did not choose to perform. [Example:. A high refueling loss emitter is randomly selected for testing by EPA. EPA performs the city and highway tests, but may require the manufacturer to perform the refueling test.]
6. If EPA waives testing the vehicle, and you have selected the vehicle for confirmatory testing, you may immediately proceed with that testing.
7. If EPA waives testing the vehicle, and you did not select it for confirmatory testing, no further testing

is required.

Criteria for Confirmatory Test Selection

1. **Failure or Replacement for Failed Vehicle.** The vehicle configuration has previously failed an emission standard or the vehicle is a replacement for a failed vehicle. Both city and highway tests should be run for vehicles selected under this criterion, regardless of the test procedure on which the emission standard failed. An evaporative, refueling, SFTP, cold CO and/or CST procedure should be run in addition to the city and highway tests if that emission standard was failed.

2. **High Emission Levels.** Any certification level (test level adjusted by the deterioration factor, or test level with aged components installed) is 90% or more above the applicable standard. If more than one test was performed for any procedure, only the last test is considered for this criterion. Both city and highway tests should be run for vehicles selected under this criterion, regardless of the test procedure on which the emission standard was high. An evaporative, refueling, SFTP, cold CO and/or SFTP procedure should be run in addition to the city and highway tests if the certification level for that procedure was high.

3. **High Fuel Economy.** The fuel economy value of the city and/or highway test as measured in accordance with the procedures in 40 CFR Part 600 equals or exceeds the value contained in the cut point table attached below. If more than one test was conducted, harmonically average them prior to consulting the cut point table. Test only the procedure(s) identified using this criterion.

4. **Potential Gas Guzzler.** The combined (unadjusted) fuel economy value as measured in accordance with the procedures in 40 CFR Part 600 is between 22.3 and 22.8 mpg. If more than one test was conducted, harmonically average the fuel economy values prior to calculating the combined fuel economy. Both city and highway tests must be run for vehicles selected under this criterion.

5. **Potential Fuel Economy Leader.** The fuel economy value as measured in accordance with the procedures in 40 CFR Part 600 equals or exceeds the value contained in attached cut point table. If more than one test was conducted, harmonically averaged them prior to applying the criteria in the table. Test only the procedures identified using this criterion.

Retesting for Fuel Economy Differences

You are required to conduct a retest of the FTP or highway test

if the difference between the fuel economy of the confirmatory test and the original manufacturer's test (or average of the original tests) equals or exceeds three percent. Percent difference is calculated as follows:

$$\text{Percent difference} = (\text{Confirmatory} - \text{Mfr. avg}) / \text{Confirmatory}$$

You may at your option use 2% rather than 3% for the retest criterion, provided you apply it consistently for all vehicles for the entire model year.

You have the option of accepting the lower fuel economy of your original test (or average, if more than one test) and confirmatory test fuel economy result in lieu of retesting the vehicle.

Second Retests

You are required to conduct a second retest of the FTP or highway test if both of the following conditions occur:

1. the fuel economy difference between the retest and the original manufacturer test equals or exceeds three percent; and

2. the fuel economy difference between the retest and the first confirmatory test equals or exceeds three percent.

You may at your option use 2% rather than 3% for the retest criterion, provided you apply it consistently for all vehicles for the entire model year.

You have the option of accepting the lowest fuel economy value among your original test (or average if more than one test), the first confirmatory test and the first retest in lieu of conducting a second retest.

No more than two valid retests need be conducted under any circumstances.

Selection of "Official" test data.

The current procedures established for selecting "official" data for emissions compliance and fuel economy determination continue to apply to this guidance. See chart of Retests and Fuel Economy Disposition Assignment.

**Cutpoints for "Potential Fuel Economy Class Leader"
Gasoline Fueled Vehicles**

Vehicle Class	City	Highway
Two Seater	25	29
Minicompact	33	41
Subcompact	41	47
Compact	31	40
Midsize	26	37
Large	21	30
Small Wagon	30	38
Midsize Wagon	23	32
Small Pickup	23	29
Standard Pickup	22	27
Vans	16	21
Minivans	20	26
Sport Utility Vehicles	25	29

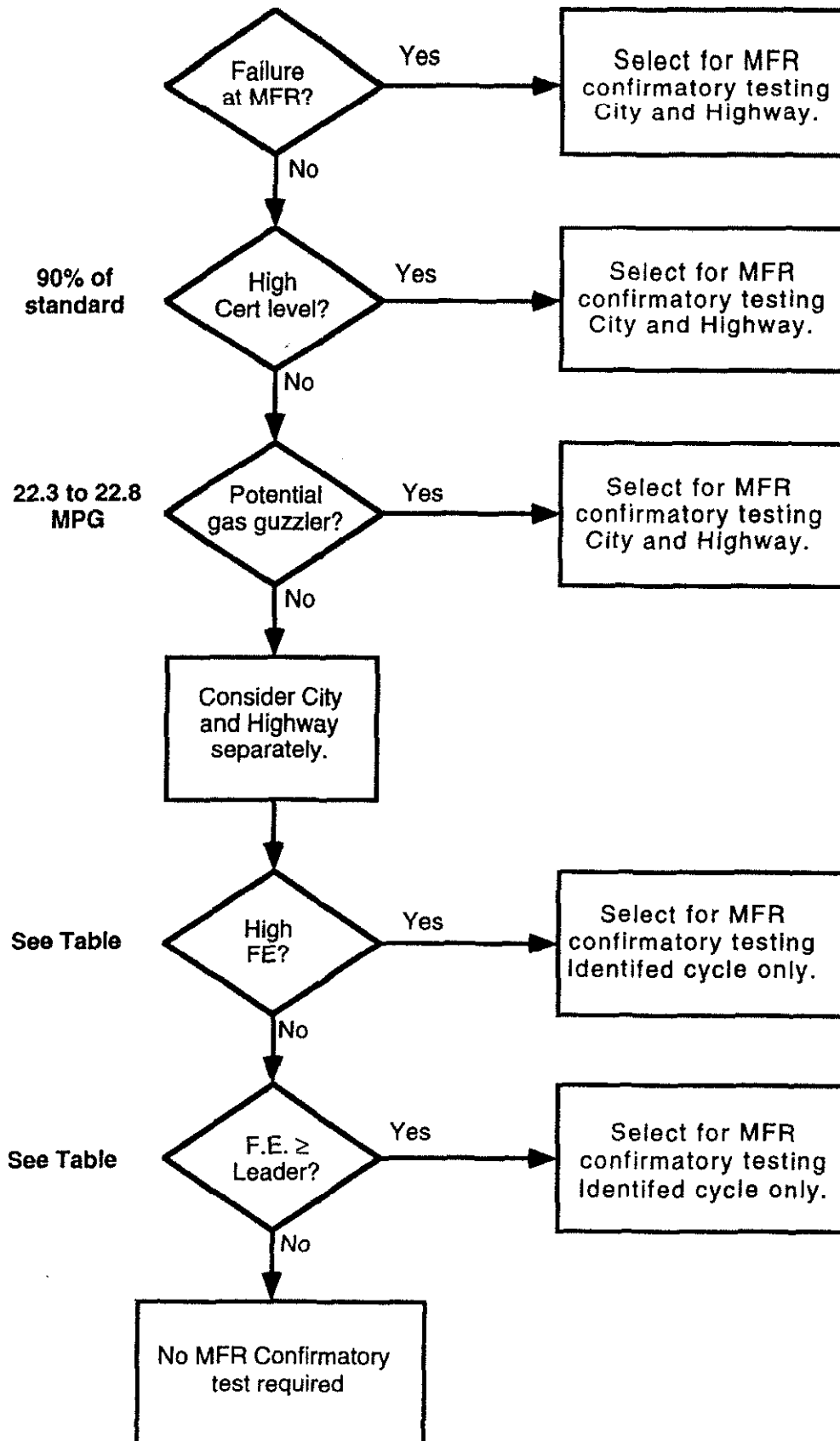
April 21, 1999

Cutpoints for "High Fuel Economy"
Gasoline Fueled Vehicles

ETW	City Cars	Hwy Cars	City Trucks	Hwy Trucks
2000	42.9	58.9	31.9	44.8
2125	41.2	57.0	31.1	43.8
2250	39.5	55.2	30.3	42.8
2500	36.3	51.7	28.8	40.9
2650	34.8	50.1	28.1	40.0
2750	33.4	48.4	27.4	39.1
2875	32.0	47.0	26.7	38.2
3000	30.7	45.5	26.0	37.4
3125	29.4	44.0	25.4	36.5
3250	28.2	42.6	24.7	35.7
3375	27.1	41.3	24.1	34.9
3500	26.0	40.0	23.5	34.1
3625	24.9	38.7	22.9	33.4
3750	23.9	37.5	22.3	32.6
3875	22.9	36.3	21.8	31.9
4000	22.0	35.2	21.2	31.2
4250	20.2	33.0	20.2	29.8
4500	18.6	30.9	19.2	28.5
4750	17.1	29.0	18.2	27.2
5000	15.7	27.2	17.3	26.0
5250	14.4	25.5	16.5	24.9
5500	13.3	23.9	15.7	23.8
6000			14.1	21.7
6500			12.8	19.8
7000			11.5	18.1

April 21, 1999

Confirmatory Test Selection



CAP 2000 Test Request

Manufacturer _____
 Vehicle ID _____
 Test Group _____
 Engine Family _____
 Evap Refueling _____
 Family _____
 Carline Name _____
 Standards _____
 Test Type _____
 Vehicle Class _____

Model Year _____
 Configuration _____
 Engine Code _____
 R/C# _____
 Trans. Type _____
 Mode _____, SIL _____
 Fuel: Indolene ☐, Phase II ☐
 Fan Placement: _____
 City: _____
 Hwy.: _____
 Other _____

N/V _____
 ETW _____
 Tires _____
 A/C _____
 (Twin roll) DPA: hp _____
 (Single roll) DPA: Set Coefficients: _____
 (Test vehicle)
 a: _____ b: _____ c: _____
 Target Coefficients: _____
 (Coast down vehicle)
 a: _____ b: _____ c: _____

Manufacturer Test Results	Federal		California					
	Cert 50K	Std 50K	Cert U/L	Std U/L	Cert 50K	Std 50K	Cert U/L	Std U/L
NMHC	_____	_____	_____	_____	_____	_____	_____	_____
CO	_____	_____	_____	_____	_____	_____	_____	_____
NOx	_____	_____	_____	_____	_____	_____	_____	_____
2D Evap	_____	_____	_____	_____	_____	_____	_____	_____
Cold CO	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

New Engine ☐ Yes ☐ No

Selected for Mfr. Testing

City ☐ Hwy ☐

Coast Down Data

Actual CD Time = (_____) x 100 = _____ %
 Target CD Time (_____)

City Test # FE* Hwy Test # FE* Evap. Test#

1. _____
 2. _____

Combined MPG* _____ (Pass. Cars Only)

*Do not list FE, or combined mpg, if data will not be used for FE label or CAFE

Manufacturer Confirmatory Testing

	Yes	No
Failure or replacement for failed vehicle	<input type="checkbox"/>	<input type="checkbox"/>
High Emission levels	<input type="checkbox"/>	<input type="checkbox"/>
Higher than expected fuel economy	<input type="checkbox"/>	<input type="checkbox"/>
Potential Gas Guzzler	<input type="checkbox"/>	<input type="checkbox"/>
Fuel Economy > Fuel Economy of Leader	<input type="checkbox"/>	<input type="checkbox"/>
Comments:	_____	

Manufacturer Test Procedures

FTP ☐ Single Roll Dyno ☐ Precon. Can. 2D/3D ☐
 HWY ☐ Twin Roll Dyno. ☐ Cold CO ☐
 CST ☐ 2-D Evap. ☐ SC03 ☐
 3-D Evap. ☐ SC03 (AC1) ☐
 US06 ☐ SC03 (AC2) ☐
 Other _____

Arrival Date at EPA _____
 (8am, 3 working days prior to the scheduled test)

Mfr. Signature _____

EPA Review Criteria

City Hwy	City Hwy	City Hwy
Random <input type="checkbox"/>	New Veh. No Data <input type="checkbox"/>	Other <input type="checkbox"/>
High CD Time <input type="checkbox"/>	Defeat Device <input type="checkbox"/>	

EPA Testing Decision

FTP <input type="checkbox"/>	EVAP (2D/3D) <input type="checkbox"/>	US06 <input type="checkbox"/>
HWY <input type="checkbox"/>	Precond. Can. (2D/3D) <input type="checkbox"/>	SC03 <input type="checkbox"/>
CST <input type="checkbox"/>	Cold CO <input type="checkbox"/>	SC03 (AC1) <input type="checkbox"/>
OBD <input type="checkbox"/>	Single roll Dynamometer <input type="checkbox"/>	SC03 (AC2) <input type="checkbox"/>
ORVR <input type="checkbox"/>	Other _____	

EPA Waived ☐ Test @ EPA ☐ Test Date _____

Test @ MFR ☐

EPA Signature _____ Date _____

Test Request Instructions

Arrival Date at EPA

Enter the date that the vehicle will arrive at EPA ready for testing. (ref. VPCD-98-07-3 working days prior to scheduled test date)

Carline name

Enter the actual carline name, not the numerical code.

Cert. 50K

Enter the 50,000 mile certification test levels (with DF applied).

Cert. U/L

Enter the full useful life certification level (with DF applied).

Coast Down Data

Enter the actual coast down time and target coast down time in the spaces provided and the calculated percentage to one decimal place.

Configuration

Enter the configuration number from EPA's data base.

Combined FE

Enter the harmonically averaged fuel economy for this city and highway test combination.

Comments

Enter descriptions of new vehicles, running changes and any additional pertinent information. Indicate the current vehicle configuration when submitting multiple versions of the same vehicle that require hardware changes between tests. (e.g. tires, axle, computer chips, etc.) Fill out 2 separate Test Request forms if an enhanced evap test was performed. Place the 2-day evap results on the first TR with corresponding FTP and the 3-day evap and FTP on the second TR. Anytime this vehicle gets a preconditioned canister test (even when no enhanced evap test is performed) provide extra canisters if needed, canister specifications (i.e. Canister volume, working capacity, loading rate, etc.) and evap purging and loading

schematics.

DPA: hp

Enter the twin roll dynamometer horsepower

DPA: Set Coefficients (Test vehicle)

If a single roll dynamometer was used in testing, write in the values for each coefficient a, b and c. (a) is pound force by taking gravity into account. (b) is pound force divided by mile per hour. (c) is pound force divided by mile per hour squared.

Target Coefficients: (Coast Down vehicle)

Write in the target coefficients of the coast down vehicle.

Engine Code

Enter the engine code.

Engine Family

Enter the engine family name.

Emission values

Write in the certification levels and standards for all applicable emissions, using other emissions listed on this page.

ETW

Enter the equivalent test weight.

Evap. Refueling Family

Enter the evaporative refueling family name.

Fan Placement

Please provide the number and location of fans necessary for the city and highway test only. For example: One centered front fan, in up position on the city and highway tests.

FE

Enter the city, highway and combined fuel economy mpg associated with the preceding city and highway test number; if it will be used for fuel economy labels or CAFE. List combined mpg for light-duty vehicles only (not light-duty trucks).

Fuel Economy;

City Test # / Hwy. Test #
Enter the city and highway test numbers assigned by CFEIS for all testing.

Fuel

Indolene (EPA unleaded test fuel)
Phase II
Enter the following in other:
Diesel CNG
M85 E85
M10 E10
ETC.

Manufacturer

Enter the manufacturer name, not code.

Manufacturer's test results Federal or California

Enter data under applicable sales area, Federal and / or California.

MFR Signature

Signature of manufacturer representative who can be contacted if necessary.

MFR Test Procedures

Mark all test procedures performed on this vehicle/version combination. If preconditioned canister is marked, see instructions under comments. If other is marked, write in the test procedure.

Mode

Power
Economy
Other

Model Year

Enter the represented model year of the test vehicle.

New Engine/ Emission control system

Does the vehicle have a new engine or engine control system? Describe in comments.

N/V

Enter the N/V (engine rpm divided by vehicle speed in the highest transmission gear)

Other Emissions

NMOG
THC
Evap. 2-day (HS+ Diurnal)
Evap. 3-day (HS+ Diurnal) running loss
Spitback
PM
OMHCE
OMNMFCE
Cert Short Test
Idle CO
Hwy Nox
Other

R/C

Enter the running change number if applicable.

SIL

Did the test use a shift indicator light? Yes or No.

Standards

Tier I
TLEV
LEV
ULEV
SULEV
ILEV
ZEV

Std 50K

Enter the appropriate 50,000 mile certification standard.

Std U/L

Enter the appropriate full Useful life certification standard.

Test Group

Enter the test group (CAP 2000 only).

Test Date

When the vehicle will be tested. The vehicle must be at EPA at least three working days prior to the test date; ref VPCD -98-07, May 5, 1998.

Test @ MFR

Mark this if the confirmatory test will be performed by the manufacturer.

Test Type

EDV
FEDV

Tires

Enter the tire make and size.

Trans. Type

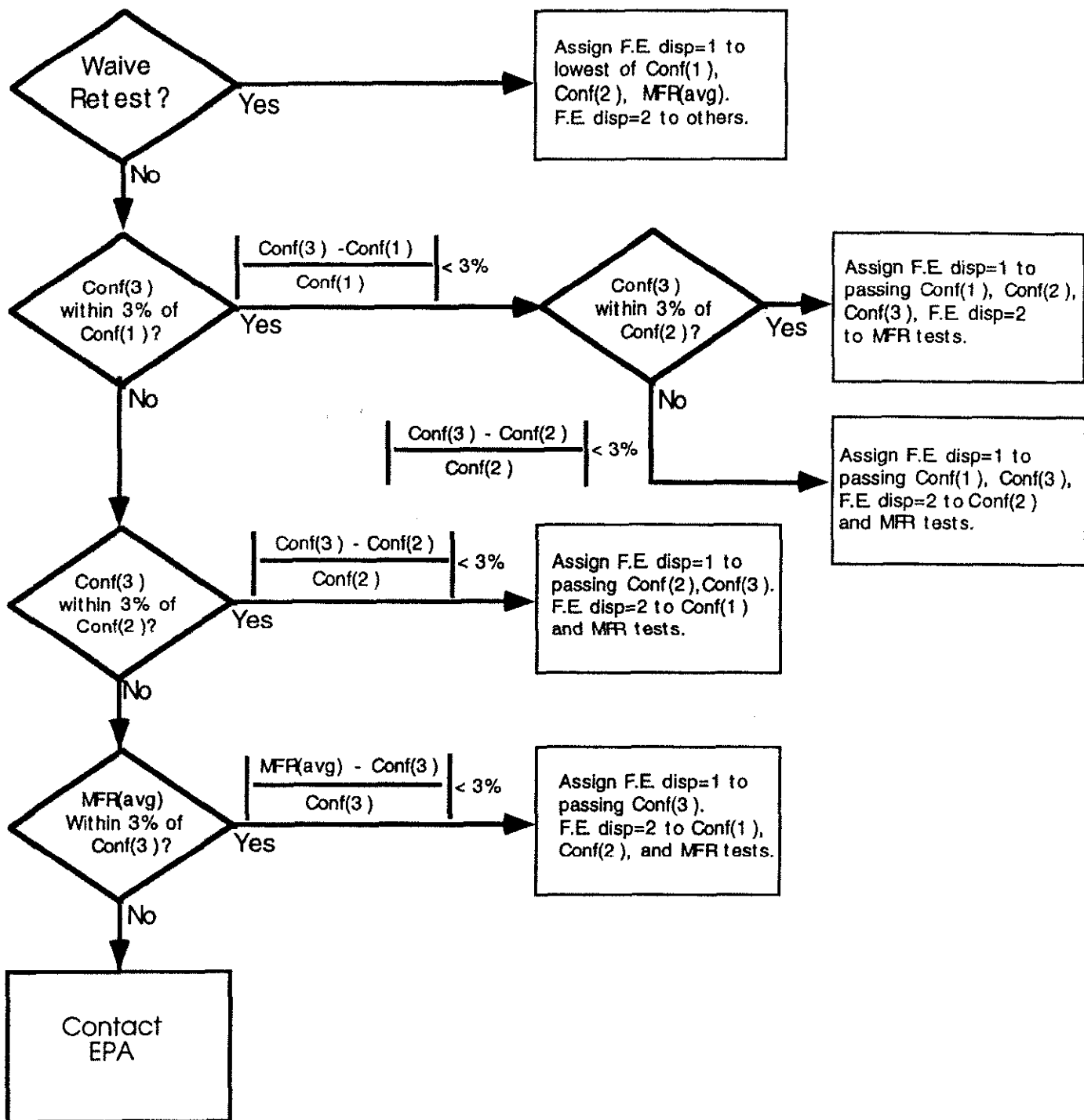
Transmission type
A3 M3
A4 M4c
A5 M4
L3 M5c
L4 M5
L5 M6c
Other M6

Vehicle Class

Two Seater
Mini
Sub Compact
Compact
Mid Size
Large
Small Wagon
Mid Wagon
Large Wagon
Small Pickup
Standard Pickup
Van
Special Purpose:
Minivan
Sport Utility Vehicle (SUV)

Vehicle ID

Enter the vehicle identification number.



FE Disp of 1 indicates that the test is used as official data in the fuel economy program

FE Disp of 2 indicates that the test is not used as official data in the fuel economy program

The first passing confirmatory test is used as official data for emission purposes

Use unrounded values of percent difference when comparing to the 3% limit (e.g. 2.99 is not 3%)

-CAP 2000 GUIDANCE-

RECOMMENDED PART 1 APPLICATION FORMAT

To expedite EPA's review, EPA strongly recommends that you adopt the following standardized format for your applications for certification. While other formats may be acceptable, they may result in slower EPA review time.

This format is based on the Part 1 application requirements found in 40 CFR86.1844-01(d)

Common Sections

You may submit certain information which is common to more than one test group in a "common section", rather than in the individual test group's application. Then you may reference the information rather than submit it with each application. We have made suggestions, below, of information that can usually be submitted in the common sections. Submit the common sections with your first application.

Confidential Information

Place all confidential information in a separate section at the end of the application. When only limited information on a page is confidential, either create a code for it (and place the decoded information in the confidential section), or use the statement "See confidential section".

Cover Page

Create a cover page which contains a basic description of the test group and vehicles tested contained in the application.

Advice for Submittal

See sample cover page which contains the following items:

- Model year
- Durability Group Name
- Test Group Name
- Summary Sheet Number
- Brief description of the Durability Group
- Brief Description of the Test Group
- Applicable standards
- Vehicles Tested
- Requested Response Date
- For Questions, Contact Name
- Special Instructions

1. Correspondence and Communications

Information to be Included:

- Names, phone numbers, fax numbers, e-mail addresses of all persons authorized to be in contact with EPA compliance staff. At least one U.S. contact must be provided.
- Areas of responsibility for each person.
- Address where official documents are to be mailed.

Advice for Submittal:

- Supply complete list of contacts in the common application section.
- Identify the primary certification contact in the application: "For questions call..."

2. Durability Group Description

A description of the durability group in accordance with the criteria listed in 86.1820-01, or as otherwise used to group a product line.

Information to be Included:

- Durability Group Name
- Combustion Cycle
- Engine Type
- Fuel Used
- Basic Fuel Metering System
- Catalyst Construction
- Precious Metals in Catalyst
- Range of Catalyst Grouping Statistics

Advice for Submittal:

- You may reference a complete breakdown of your durability groups in a common section.
- If you consider the any of the catalyst information to be confidential, list a code in the main body of the application and explain the meaning of the code in the confidential materials.

3. Evaporative/Refueling Family Description

A description of evaporative/refueling families in accordance with the criteria listed in 86.1821-01, or as otherwise used to group a product line.

Information to be Included:

- Evaporative/Refueling Family Name
- Evaporative/Refueling Family Parameters specified in §86.1821-01

Advice for Submittal:

- Place any general descriptions or schematics in the common section.
- Because evap/refueling families cross test groups, you may want to put all the evap information in the common section rather than re-listing it with each test group. The minimum information required in each test group application is the evap/refueling name and a specific page reference to the common section information.
- You may reference a complete breakdown of your evaporative/refueling families in the general section.

4. Durability Procedure Description

A description of the durability procedure approved and/or modified under §86.1823-01 which applies to this test group. A list of any applicable deterioration factors.

Information to be Included:

- Separate information for exhaust and evap/refueling deterioration.
- A description of the durability procedure used. Describe any modifications from the procedure originally approved by EPA.
- The amount of aging required and actually performed. (e.g., "For 100K Mileage: 300 hours on RPD1 aging cycle required, 350 hours performed, For 50K mileage: 200 hours on RDP1 Aging cycle required, 350 hours performed").
- Indicate whether additive or multiplicative DF's are used or if aged components were used to determine certification levels.
- List all DF's calculated at both full and intermediate useful life mileages.

Advice for Submittal:

- Place the durability descriptions in the common section and reference them.
- Reference the summary sheet for deterioration factors.

5. Test Group Description

A description of the test group in accordance with the criteria listed in 86.1827-01, or as otherwise used to group a product line.

Information to be included:

- Test group name.

- Summary sheet number.
- Engine displacements covered.
- Arrangement and number of cylinders (e.g., V6).
- Vehicle class(es) covered. (e.g., LDV, LDT2, LDV & LDT1).
- Participation in NLEV (e.g., restricted NLEV, Unrestricted NLEV).
- Emission standards class (e.g., LEV, Tier 1, TLEV).
- Applicable emission standards.

Advice for Submittal:

- Reference the summary sheet for emission standards.

6. Test vehicle description

Identification and description of all vehicles for which testing was completed to satisfy the requirements of 86.1822-01 and 86.1828-01 to obtain a certificate of conformity.

Information to be Included:

- Provide information on all test vehicles which are included in this application. Include, for example, evap/refueling vehicles, cold CO, SFTP, and FTP vehicles.
- Test vehicle number and configuration number from CFEIS.
- Basic vehicle description:
 - Engine displacement
 - Emission control system
 - Engine code
 - Transmission
 - ETW
 - Axle Ratio
- Complete vehicle description

Advice for Submittal:

- Reference the vehicle information (VI) submitted to CFEIS for the complete vehicle description.

7. Test results

A comprehensive list of all test results, including official certification levels, and the applicable intermediate and

full useful life emission standards to which the test group is to be certified as required in 86.1829-01.

Information to be Included:

- Provide test numbers from CFEIS for all tests run
- Provide official test results (listing all applicable constituents) on all test vehicles which are applicable to this application. Include, for example, evap/refueling vehicles, cold CO, SFTP, and FTP tests.
- Calculate and list the certification levels for each constituent

Advice for Submittal:

- You may combine the test result information of this section with the test vehicle descriptions of section 6.
- Place a copy of the summary sheet from CFEIS in this section to satisfy the test result and certification level requirements.

8. Emission testing waiver statement.

A statement that all applicable vehicles will conform with the emission standards for which emission data is not being provided, as allowed under 40 CFR 86.1829-01 or 86.1810-01. The statement must clearly identify the standards for which the emission testing was not performed.

Typical statements of compliance required when testing was not performed:

- Otto-cycle, gasoline or methanol fueled particulate matter
- Total HC
- Certification Short Test (CST)
- Idle CO for LDT's
- OBD Compliance with California requirements
- 91 RON fuel testing - no effect on emissions or fuel economy
- Spitback fuel (required when no testing performed)
- Refueling standards for inherently low emitting vehicles
- Fixed liquid level gauge waiver for testing refueling emissions

9. OBD System Description

Supply all the information required in 86.1806-01.

Information to be Included:

- A description of the functional operation characteristics of the onboard diagnostic system.
- The general method of detecting malfunctions for each emission-related component.
- Any deficiencies, including resolution plans and

schedules.

Advice for Submittal:

- Use California ARB's OBD table format to satisfy the description requirements.
- If your OBD systems are shared between test groups, place the OBD table in the common section and reference it.

10. Description of Alternate-fueled Vehicles

A description of all flexible or dedicated alternate fuel vehicles including, but not limited to, the fuel and/or percentage of alternate fuel for all such vehicles.

11. AECD descriptions

A list of all auxiliary emission control devices (AECD) installed on any applicable vehicles including the sensed and controlled parameters. (See EPA's guidance letter VPCD-98-08, May 28, 1998). A detailed justification of each AECD which results in a reduction in effectiveness of the emission control system, and rationale why the AECD is not a defeat device as defined under 86.1809-01.

Advice for Submittal:

- Make a table listing AECD's (down) and sensed and controlled parameters (across).
- Place AECD descriptions and explanations of why they are not a defeat device in the common section.

12. Description of vehicles covered by certificate and test parameters.

Description of all vehicles covered by each certificate of conformity to be produced and sold within the U.S., sufficient to identify whether any given in-use vehicle is or is not covered by a given certificate of conformity. Description of test parameters and special test procedures which are applicable to the vehicles covered by the certificate of conformity.

Information to be Included:

- Vehicle Parameters
 - Carline
 - Model Name
 - Vehicle classification

- Emission control system description:
 - Type, number and configuration of catalyst(s)
 - EGR type
 - Air pump type
 - Fuel system type
 - Intake air aspiration method
 - Other
 - Engine Code
 - Number of valves per cylinder
 - Engine displacement
 - Sales area
 - Transmission and overdrive
 - SIL
 - Tire size
 - N/V Ratios (range of values are acceptable)
 - ETW (range of values are acceptable)
 - Fuel tank volume (range of values are acceptable)
- Test Parameters
- Engine Starting Procedures
- Shift schedules (list EPA shift schedule number and shift speeds)
- Dyno loading Information (either: (1) Twin roll Dyno DPA and coastdown times, or (2) single roll dyno roadload coefficients, as appropriate; indexed by the vehicle characteristics (models, ETW, tires) covered
- Evaporative testing parameters (such as canister loading, running loss fuel tank temperature)

Advice for Submittal:

- Present vehicles covered by the certificate in a table form (possibly on a spreadsheet).
- Place test parameter information in the common section.

13. Projected sales

Projected US sales for each test group and evaporative/refueling family combination organized in such a way to determine projected compliance with any applicable implementation schedules or minimum sales requirements.

Advice for Submittal:

- Place a phase-in compliance plan in the common section. The plan should indicate which test groups are part of the phase-in requirements and which are not. The plan should

also include the rate of compliance and a determination that the phase-in implementation schedule will be met.

- Projected sales may be considered confidential. Reference the sales numbers in the confidential portion of the application and/or common section if you wish confidential treatment of these projected sales.

14. Request for certification

Written request for a certificate of conformity, signed by an authorized representative. The request must include a statement that the test group complies with all applicable regulations contained within 40 CFR Part 86.

Advice for Submittal:

- You may use the formats of your current statements of compliance with updated references.

15. Other information

- Fee filing form
- Any additional information

16. Confidential Information

Place all confidential information in this section.

17. California ARB Information

Place additional ARB information in this section.

RECOMMENDED PART 2 APPLICATION FORMAT

Common Sections

You may submit certain information which is common to more than one test group in a "common section", rather than in the individual test group's application. Then you may reference the information rather than submit it with each application. We have made suggestions, below, of information that can usually be submitted in the common sections. Submit the common sections with your first application.

Confidential Information

Place all confidential information in a separate section at the end of the application. When only limited information on a page is confidential, either create a code for it (and place the decoded information in the confidential section), or use the statement "See confidential section".

1. Part numbers

A list of part numbers of all emission- related components and AECDs for each emission control system, including those found on actual components, organized by engine code or other similar classification scheme.

2. Calibration information

Basic calibration information, organized by engine code, or other similar classification scheme, for the major components of the fuel system, EGR system, ignition system, oxygen sensor(s) and thermostat. For example: fuel pump and fuel pump flow rate, fuel pressure regulator and regulated fuel pressure, EGR valve and EGR exhaust gas flow rate at specified vacuum levels, EGR vacuum regulator and regulated vacuum, EGR orifice and orifice diameter, basic engine timing, timing RPM, idle RPM, spark plug gap, oxygen sensor output (mV) and thermostat opening temperature.

3. Detailed description of vehicles covered by certificate and test parameters.

Information to be included

- Updated vehicle parameters (from part 1) listing specific values, not ranges.
- Updated test parameters covering all vehicles.

- Basic information about the engine code (such as engine horsepower at speed, engine torque at speed, idle speed, basic timing, catalyst codes).

Advice for Submittal:

- You may satisfy this requirement by updating the Part 1 if specific values (rather than ranges) are used.

4. Final US sales

Final sales are required with the final submission of the Part 2 application. Final sales are never treated as confidential by the Agency.

Advice for Submittal:

- Place a final phase-in compliance demonstration in the common section for each emission standard with phase-in requirements. The demonstration should indicate which test groups are part of the phase-in requirements and which are not. The plan should also include the rate of compliance and a determination that the phase-in implementation schedule was met.

5. Service manuals, service bulletins

Copies of all service manuals, service bulletins and instructions regarding the use, repair, adjustment, maintenance, or testing of such vehicles relevant to the control of crankcase, exhaust or evaporative emissions, as applicable, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers. These must be submitted to EPA when they are made available to the public and must be updated as appropriate throughout the useful life of the corresponding vehicles.

Advice for Submittal:

- Submit service manuals as they become available. Do not provide a second copy with the updated Part 2 unless they change.
- Submit service bulletins as they become available. Limit service bulletins to emission related devices or fixes. Do not provide a second copy with the updated Part 2 unless they have changed.

[Sample Cover Page]

Application For Certification - Part 1

2001 Model Year

Durability Group: XXXXXXXXXXXX

Evap. Families: 1TWXR0140ABC, 1TWXE0100AAC

Test Group:1TWXX03.3228

Summary Sheet No.: 999LDV01, 999LDT01

Durability Group Description: Four Stroke, Otto Cycle,
Gasoline Fueled, Ported FI, Catalyst Code ABC
[if not confidential: Ceramic Monolith Pt/Pd/Rh
Catalyst]

Test Group Description: 3.0 & 3.3 Liter V6
LDV & LDT1

Applicable Standards:49 State: NLEV - LEV
Calif: ULEV

Carlines Covered:

Carline 1 (49 St), Carline 2 (50 St), Carline 3 (CA), Carline 4
(50 St)

Vehicles Tested:

VID1 config. 01 (FTP TN: XXXXXXXX, SFTP TN: XXXXXXXX)
VID2 config. 02 (Evap TN XXXXXXXX)

EPA Response Requested By: Dec. 1, 2000

For Questions, Contact:

Jane Doe, 313 555-5555

EPA Test Pending - Conditional Cert Requested



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

OFFICE OF
AIR AND RADIATION

March 27, 2000

Dear Manufacturer:

CCD-00-02 (LDV/LDT/SM/ICI)

Subject: Revision of EPA Test Request Sheet

This letter transmits a revised EPA Test Request Sheet which should be used for all 1999 and later emission-data vehicles, running change vehicles, and fuel economy data vehicle packages effective immediately. This format is basically the same as provided in VPCD-99-06, April 22, 1999 with minor changes explained below and a change in twin roll coastdown testing protocol.

The change in twin roll coastdown protocol was previously transmitted to the CAP 2000 industry work group in an August 10, 1999 memo from Dennis Pawlac, Ford representative on that work group.

Explanation of the updated Test Request Form:

The top part of the form gives information about the test vehicle. There were two minor changes to this part of the form which was to add the term (Track) under Target coefficients of the coast down vehicle and to lengthen the lines where information would be written for both the Set coefficients and Target (Track) coefficients.

The lower portion of the form shows the coast down data, the fuel economy test numbers and results, the manufacturers confirmatory testing criteria, the manufacturers test procedures and the EPA review criteria. We have added a space for the US06 test number assigned by the EPA CFEIS data base. We have further defined Coast Down Data as "Twin Roll Coast Down Data". Under the heading of "Manufacturer Confirmatory Testing" we have added Twin Roll Coast Down Time 105% to 107%. If the coast down time of the manufacturers test vehicle is between 105% and 107%, the manufacturer should repeat the coast down on the same dynamometer and clearly indicate both coast down times (original and retest) in the space provided on the EPA Test Waiver Sheet. EPA will review the waiver sheet following CAP 2000 protocol.

Coastdown Protocol Changes:

Coastdown tests should be performed after each highway test for both single roll electric and twin roll hydrokinetic dynamometers.

For single roll dynamometer tests, (excluding cold CO tests) manufacturers should list on the EPA Test Request, the a, b, c, factors for the test vehicle (commonly called the dynamometer set coefficients) and the a, b, c, factors for the road force equation (commonly called the target or track coefficients).

For single roll dynamometer tests, manufacturers should not list the actual and target coastdown times and (actual ÷ target) percent, as are required for twin roll dynamometers. Additional guidance regarding the quick check process and tolerances for single roll electric dynamometers is contained in VPCD-98-16, December 21, 1998.

For twin roll dynamometer tests, manufacturers should list on the EPA Test Request the dynamometer horsepower, the actual coastdown time of the test vehicle, the target coastdown time of the coastdown vehicle, and the (actual ÷ target) percent.

If the (actual ÷ target) percent of the manufacturers test is above 107%, manufacturers should proceed according to the guidelines provided in A/C 55C paragraph V D.3. [There is no change to EPA policy.] As described in A/C 55C, manufacturers may 1) repeat the coastdown quick-check on the same dynamometer or 2) void the emission and fuel economy results of the first city and highway tests and perform a second set of city and highway tests on a different dynamometer. If the second quick-check is less than 107 percent, the vehicle is deemed to have passed the quick-check criteria and the data may be submitted to EPA. If the second quick-check is equal to or greater than 107 percent, the vehicle is deemed to have failed and manufacturers should proceed according to the guidelines provided in A/C 55C paragraph VI. This failing data should not normally be submitted to EPA on an EPA Test Request.

If the (actual ÷ target) percent is between 105% and 107% the emissions and fuel economy data are in question. For these questionable (105 to 107 percent) tests, manufacturers should repeat the coastdown on the same dynamometer and clearly indicate both coastdown times (original and retest) on the EPA Test Request sheet. If the retest is between 105 and 107 percent, manufacturer confirmatory testing will be required for both the city and highway tests and this should be indicated on the EPA Test Request form in the space provided. [Eldert Bontekoe and Linda Hormes of my staff, agreed to these changes in a CAP 2000 work group meeting held on August 5, 1999.]

The rest of the testing process follows standard CAP 2000 protocol as described in VPCD-99-06, page 6 of the enclosure. Please note that manufacturer confirmatory tests should not normally be performed until after EPA has reviewed the test request sheet for EPA confirmatory testing (for random audit and new engine/new technology).

Items that did not change from the previous Test Request Form:

Under the Twin Roll Coast Down data is the section showing the test numbers and fuel economy results of testing at the manufacturers facility. Please note that the combined mpg may be left blank on light-duty truck testing. Also do not list the fuel economy or combined mpg if the fuel economy data will not be used for a fuel economy label or CAFE (e.g. some manufacturers are not using the

fuel economy mpg values from phase II fuel tests). This information has not changed from the previous letter and is left in to serve as a reminder.

There were no changes to the Manufacturer Test Procedures section of the form. Please check off all that apply to the subject test vehicle. Also note that under the Arrival Date we have indicated when each confirmatory vehicle should arrive at EPA, which is at 8am at least three working days prior to the scheduled test date. Manufacturer guidance letter VPCD-98-07 outlined this policy.

The instructions for filling out the form are on the reverse side of the form. We have alphabetized the instructions to help in locating the information.

If you would like an electronic copy of the file or have any question about this form, please contact your certification representative.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory A. Green", written over a horizontal line.

Gregory A. Green, Director
Certification and Compliance Division
Office of Transportation and Air Quality

Enclosures

CAP 2000 Test Request

Manufacturer _____
 Vehicle ID _____
 Test Group _____
 Engine Family _____
 Evap Refueling _____
 Family _____
 Carline Name _____
 Standards _____
 Test Type _____
 Vehicle Class _____

Model Year _____
 Configuration _____
 Engine Code _____
 R/C# _____
 Trans. Type _____
 Mode _____, SIL _____
 Fuel: Indolene ☐, Phase II ☐
 Fan Placement: _____
 City: _____
 Hwy.: _____
 Other _____

N/V _____ ETW _____
 Tires _____
 A/C _____
 (Twin roll) DPA: hp _____
 (Single roll) DPA: Set Coefficients:
 (Test vehicle)
 a: _____ b: _____ c: _____
 Target (Track) Coefficients:
 (Coast down vehicle)
 a: _____ b: _____ c: _____

Manufacturer Test Results			Federal		California			
	Cert 50K	Std 50K	Cert U/L	Std U/L	Cert 50K	Std 50K	Cert U/L	Std U/L
NMHC	_____	_____	_____	_____	_____	_____	_____	_____
CO	_____	_____	_____	_____	_____	_____	_____	_____
NOx	_____	_____	_____	_____	_____	_____	_____	_____
2D Evap	_____	_____	_____	_____	_____	_____	_____	_____
Cold CO	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

New Engine / Technology ☐ Yes ☐ No **Selected for Mfr. Testing** ☐ City ☐ Hwy ☐ US06 ☐ SC03 ☐ EVAP 2D /3D ☐ ORVR ☐ Cold CO ☐

Twin Roll Coast Down Data
 Actual CD Time = (_____) x 100 = _____ %

Target CD Time (_____) (original) (retest)

City Test # FE* Hwy Test # FE* Evap. Test# US06
 1. _____
 2. _____

Manufacturer Confirmatory Testing

	Yes	No
Failure or replacement for failed vehicle	<input type="checkbox"/>	<input type="checkbox"/>
High Emission levels	<input type="checkbox"/>	<input type="checkbox"/>
Higher than expected fuel economy	<input type="checkbox"/>	<input type="checkbox"/>
Potential Gas Guzzler	<input type="checkbox"/>	<input type="checkbox"/>
Fuel Economy > Fuel Economy of Leader	<input type="checkbox"/>	<input type="checkbox"/>
Twin Roll Coast Down Time 105% to 107%	<input type="checkbox"/>	<input type="checkbox"/>
Comments:	_____	

Combined MPG* _____ (Pass. Cars Only)

* Do not list FE, or combined mpg, if data will not be used for FE label or CAFE

Manufacturer Test Procedures

FTP ☐ Single Roll Dyno ☐ Precon. Can. 2D/3D ☐
 HWY ☐ Twin Roll Dyno. ☐ Cold CO ☐
 CST ☐ 2-D Evap. ☐ SC03 ☐
 3-D Evap. ☐ SC03 (AC1) ☐
 US06 ☐ SC03 (AC2) ☐
 Other _____

Arrival Date at EPA _____
 (8am, 3 working days prior to the scheduled test)

Mfr. Signature _____

Phone #: _____

EPA Review Criteria

City Hwy
 Random ☐ ☐
 Defeat Device ☐ ☐ New engine/Tech. ☐ ☐
 Other ☐

EPA Testing Decision

FTP ☐ EVAP (2D/3D) ☐ US06 ☐
 HWY ☐ Precond. Can. (2D/3D) ☐ SC03 ☐
 CST ☐ Cold CO ☐ SC03 (AC1) ☐
 OBD ☐ Single roll Dynamometer ☐ SC03 (AC2) ☐
 ORVR ☐ Other _____

EPA Testing Waived ☐ Test @ EPA ☐ Test Date _____

EPA Signature _____ Date _____

Test Request Instructions

Arrival Date at EPA

Enter the date that the vehicle will arrive at EPA ready for testing. (ref. VPCD-98-07-3 working days prior to scheduled test date)

Carline name

Enter the actual carline name, not the numerical code.

Cert. 50K

Enter the 50,000 mile certification test levels (with DF applied).

Cert. U/L

Enter the full useful life certification level (with DF applied).

Configuration

Enter the configuration number from EPA's data base.

Combined FE

Enter the harmonically averaged fuel economy for this city and highway test combination.

Comments

Enter descriptions of new vehicles, running changes and any additional pertinent information. Indicate the current vehicle configuration when submitting multiple versions of the same vehicle that require hardware changes between tests. (e.g. tires, axle, computer chips, etc.) Fill out 2 separate Test Request forms if an enhanced evap test was performed. Place the 2-day evap results on the first TR with corresponding FTP and the 3-day evap and FTP on the second TR. Anytime this vehicle gets a preconditioned canister test (even when no enhanced evap test is performed) provide extra canisters if needed, canister specifications (i.e. Canister volume, working capacity, loading rate, etc.) and evap purging and loading schematics.

DPA: hp

Enter the twin roll dynamometer horsepower

DPA: Set Coefficients

(Test vehicle)

If a single roll dynamometer was used in testing, write in the values for each coefficient a, b and c. (a) is pound force by taking gravity into account. (b) is pound force divided by mile per hour. (c) is pound force divided by mile per hour squared.

Target (Track) Coefficients: (Coast Down vehicle)

Write in the target coefficients of the coast down vehicle.

Engine Code

Enter the engine code.

Engine Family

Enter the engine family name.

Emission values

Write in the certification levels and standards for all applicable emissions, using other emissions listed on this page.

ETW

Enter the equivalent test weight.

Evap. Refueling Family

Enter the evaporative refueling family name.

Fan Placement

Please provide the number and location of fans necessary for the city and highway test only. For example: One centered front fan, in up position on the city and highway tests.

FE

Enter the city, highway and combined fuel economy mpg associated with the preceding city and highway test number; if it will be used for fuel economy labels or CAFE. List combined mpg for light-duty vehicles only (not light-duty trucks).

Fuel Economy:

City Test # / Hwy. Test

Enter the city and highway test numbers assigned by CFEIS for all testing.

Fuel

Indolene (EPA unleaded test fuel)

Phase II

Enter the following in other:

Diesel CNG

M85 E85

M10 E10

ETC.

Manufacturer

Enter the manufacturer name, not code.

Manufacturer's test results

Federal or California

Enter data under applicable sales area, Federal and / or California.

MFR Signature

Signature of manufacturer representative who can be contacted if necessary.

MFR Test Procedures

Mark all test procedures performed on this vehicle/version combination. If preconditioned canister is marked, see instructions under comments. If other is marked, write in the test procedure.

Mode

Power
Economy
Other

Model Year

Enter the represented model year of the test vehicle.

New Engine / Technology

Does the vehicle have a new engine or engine control system technology? Describe in comments.

N/V

Enter the N/V (engine rpm divided by vehicle speed in the highest transmission gear)

Other Emissions

NMOG

THC

Evap. 2-day (HS+ Diurnal)

Evap. 3-day (HS+ Diurnal)

running loss

Spitback

PM

OMHCE

OMNMHCE

Cert Short Test

Idle CO

Hwy Nox

Other

R/C

Enter the running change number if applicable.

Selected for Mfr. Testing

The manufacturer must check the appropriate testing box under "Selected for Mfr. Testing", for each different test procedure they will perform at their facility in the confirmatory process, due to a yes check for any of the criteria listed under "Manufacturer Confirmatory Testing", reference CCD-00-02 and VPCD-99-06.

SIL

Did the test use a shift indicator light? Yes or No.

Standards

Tier I

TLEV

LEV

ULEV

SULEV

ILEV

ZEV

Std 50K

Enter the appropriate 50,000 mile certification standard.

Std U/L

Enter the appropriate full Useful life certification standard.

Test Group

Enter the test group (CAP 2000 only).

Test Date

When the vehicle will be tested. The vehicle must be at EPA at least three working days prior to the test date; ref VPCD -98-07, May 5, 1998.

Test @ MFR

Mark this if the confirmatory test will be performed by the manufacturer.

Test Type

EDV

FEDV

Tires

Enter the tire make and size.

Trans. Type

Transmission type

A3 M3

A4 M4c

A5 M4

L3 M5c

L4 M5

L5 M6c

Other M6

Twin Roll Coast Down Data

For twin roll dynamometers only, enter the actual coast down time and target coast down time in the spaces provided and the calculated percentage to one decimal place. Enter the calculated percentage of any retests to one decimal place.

Vehicle Class

Two Seater

Mini

Sub Compact

Compact

Mid Size

Large

Small Wagon

Mid Wagon

Large Wagon

Small Pickup

Standard Pickup

Van

Special Purpose:

Minivan

Sport Utility Vehicle (SUV)

Vehicle ID

Enter the vehicle identification number.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

November 19, 2001

MEMORANDUM

FROM: Jody Jacobs, EIS Gas Guzzler
SBSE: Compliance Area 8, Excise Territory 2, Group 8
410 962-9298
IRS-Excise:JJ:Rm 1000
31 Hopkins Plaza Baltimore, MD 21201

SUBJECT: Gas Guzzler issue alert.

In November of 2001, an issue alert was sent by the Excise Industry Specialist for Gas Guzzler Tax to Excise Tax agents in regards to the issue of the exemption of tax for 10 passenger limousines. The following is excerpted from that alert.

Manufacture of a gas guzzler limousine which holds more than 10 passengers is exempt from the excise tax under IRC section 4064. We have need to make a determination of whether manufacturers of limousines being called 10 passenger cars can legally hold 10 passengers.

Recently I have been in touch with a t/p that manufacturers this type of limousine. The manufacturer feels that others in his industry have been abusing the exemption for 10 passenger vehicles. The manufacturer has presented documents he believes shows that Ford/Lincoln vehicles made into limousines cannot legally hold 10 passengers. It is his belief that they can only hold 8 passengers. He has provided information from NHTSA and Ford that back up his beliefs.

The documentation sent to us shows that the Lincoln vehicles are certified by Ford to have a GVW of 7100 pounds but would exceed 7500 pounds if it were to carry ten passengers (using industry standards of 150 pounds per person and 200 pounds for luggage).



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Excise Industry Specialist: Jody Jacobs, Revenue Agent (I.D.#52-06254). Telephone Number: 410 962-9298

Internal Revenue Service Gas Guzzler Tax: Summary

A. Background: Gas Guzzler IRC 4064

Explanation of Tax:

The gas guzzler tax was enacted by the Energy Act of 1978 to stabilize the level of gasoline consumption. The tax is imposed on the manufacturer or importer and is based upon mileage ratings set by the Environmental Protection Agency (EPA). The person who causes a remanufacture of a vehicle which becomes a guzzler vehicle is responsible for the tax, i.e. the owner of a vehicle being stretched.

Forms: F-720 Quarterly Federal Excise Tax Return, F-6197 Gas Guzzler Tax attachment to form 720. Publication: P-510 Excise Taxes.

B. APPLICABLE LAW:

Internal Revenue code (IRC) section 4064, imposes a tax on the manufactures' sale or use of passenger vehicles, weighing 6,000 pounds gross vehicle weight (GVW) or less, obtaining less than 22.5 miles per gallon rating (MPGR). The amount of the tax is based on a rate chart included in the code section.

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	\$ 0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700

This rate chart is the current since 1991

Treas. Reg. section 48.4064-1 (b) defines the following terms:

- A sale includes the use or first lease of an automobile by the manufacturer as under IRC sections 4218 and 4217(e), leases.
- Manufacturer has the same meaning assigned to such term under Treas. Reg. section 48.0-2 (a)(4). It also includes a person who imports an automobile, or lengthens an automobile.

Gas Guzzler Tax: Summary(cont.)

- Automobile is any fuel-propelled vehicle that has four wheels and is designed to operate on public streets, roads, and highways, and is rated at 6,000 pounds GVW or less.

The weight test does not apply to limousines.

An automobile does not include a nonpassenger automobile as defined in regulations in effect on November 9, 1978 which defers to (49 CFR 523.5 (1978)).

- Fuel economy means the average number of miles traveled by an automobile per gallon of fuel consumed, as determined by the EPA.

(Fuel economy is determined by an EPA procedure mandated by IRS regulation 48.4064-1. It is: the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results.

Revenue Procedure 86-9: sets guidelines for importers of automobiles without a fuel economy rating assigned by EPA.

C. EXEMPTIONS:

IRC sections 4221 and 4293 set exemptions to the Gas Guzzler tax.

- Vehicles weighing more than 6,000 pounds gross vehicle weight.
- Any vehicle sold for use, or used:
 - As an ambulance, or combination ambulance-hearse, By the United States or by a state or local government for police or other law enforcement purposes, and
 - For other emergency purposes as prescribed by the Secretary by regulations.
- Non-passenger automobiles or, vehicles defined as light trucks: (with reference to 49 CFR 523.5 (1978))
 - (a) A light truck is an automobile other than a passenger automobile which is either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:
 - (1) Transport more than 10 persons;
 - (2) Provide temporary living quarters;
 - (3) Transport property on an open bed;
 - (4) Provide greater cargo-carrying than passenger-carrying volume;or
 - (5) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats, so as to create a flat, floor level, surface extending from the forward most point of installation of those seats to the rear of the automobile's interior.
 - (b) An automobile capable of off-highway operation is an automobile--
 - (1) That has 4-wheel drive

Gas Guzzler Tax

OMB No. 1545-0242

▶ Attach to Form 720.

▶ See instructions on page 2.

Name (as shown on Form 720)

Employer identification number

Quarter ending

Part I Computation of Tax

Line number	If the fuel economy (mpg) of the automobile model type is:			(d) Number of cars sold	(e) Tax due (multiply column (c) by column (d))	Line number	If the fuel economy (mpg) of the automobile model type is:			(d) Number of cars sold	(e) Tax due (multiply column (c) by column (d))	
	(a) At least	(b) But less than	(c) Tax rate				(a) At least	(b) But less than	(c) Tax rate			
1	22.5	—	\$0			7	16.5	17.5	\$3,000			
2	21.5	22.5	1,000			8	15.5	16.5	3,700			
3	20.5	21.5	1,300			9	14.5	15.5	4,500			
4	19.5	20.5	1,700			10	13.5	14.5	5,400			
5	18.5	19.5	2,100			11	12.5	13.5	6,400			
6	17.5	18.5	2,600			12	—	12.5	7,700			
13 Total tax due for the quarter. Add lines 2 through 12 in column (e). Enter here and on Form 720 on the line for IRS No. 40 ▶												

Part II Identification of Models Subject to Gas Guzzler Tax

Line no. from above	Fuel economy rating	No. of vehicles	Make, model name, and model year

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of form. Use Form 6197 to figure the gas guzzler tax. The gas guzzler tax is imposed on the sale or use by the manufacturer or importer of an automobile of a model type that does not meet certain standards for fuel economy. Automobiles imported for business or personal use are subject to the tax.

The tax liability is figured each quarter and reported on Form 720. See the separate instructions for Form 720 for information on where to file this form and how to make deposits.

If you import an automobile for personal use, you may be eligible to make a one-time filing for which no deposit is required. See **Special Rules—One-Time Filings** for more information.

Definitions

Sale includes the manufacturer's first use of an automobile or first lease of an automobile. For rules on paying the tax in the case of a first lease, see section 4217(e)(2).

Manufacturer includes a producer or importer. The lengthening of existing automobiles, to make a stretch limousine for example, is considered manufacture.

Automobile means any four-wheeled vehicle rated at 6,000 pounds or less unloaded gross weight that is propelled by an engine powered by gasoline or diesel fuel and is intended for use mainly on public streets, roads, and highways. Limousines are included regardless of their weight.

Automobile does not include vehicles operated exclusively on a rail or rails; vehicles sold for use and used (1) as ambulances or combination ambulance-hearses, (2) as Federal, state, or local police or other law enforcement vehicles, and (3) for firefighting purposes; or nonpassenger automobiles as defined in 49 CFR (Code of Federal Regulations) 523.5 (1978).

Fuel economy means the average number of miles an automobile travels on a gallon of gasoline (or an equivalent amount of other fuel) as determined by the Environmental Protection Agency (EPA).

Model type means a particular class of automobile as determined by EPA regulations.

Instructions for Part I

Complete Part I, lines 2 through 13.

Column (d)—number of cars sold. Each line indicates a rating category based on the fuel economy (mpg) of the model type. Enter the number of automobiles sold, used, or leased during the quarter in column (d) on the applicable line for the rating category.

If you sold two or more models that fall within one category, enter the total number of cars for all models in that category (see **Example** below).

Column (e)—tax due. To figure the tax due for each category, multiply the tax rate (column (c)) by the number of automobiles you entered in column (d). Enter the result in column (e).

Line 13—total tax. Enter on line 13 the total of all amounts in column (e).

Example. In the second quarter of 1999, a manufacturer sold:

Model	Fuel economy rating (mpg)	No. sold
X	20	6
Y	19.7	8
Total automobiles sold,		14

To complete Form 6197, the manufacturer would:

- Find the fuel economy rating for the models sold. Both models fall in the category for line 4 (19.5 - 20.5).
- Enter 14 in column (d), line 4.
- Enter \$23,800 (\$1,700 x 14) in column (e), line 4.
- Also, enter \$23,800 on line 13, and on the line for IRS No. 40 on Form 720.

Instructions for Part II

Complete Part II by entering for each model sold during a quarter the following information:

- The line number the model is reported on,
- The fuel economy rating,
- The number of automobiles sold, used, or leased, and
- The make, model name, and model year.

Using the facts in the **Example** above, the manufacturer would make two entries, one for Model X and one for Model Y.

If you need more space, attach a schedule in the same format as Part II.

Special Rules—One-Time Filings

If you import an automobile for personal use, you may be eligible to make a one-time filing of Form 6197 and Form 720.

See **Special Rules—One-Time Filings** on page 1 of the **Instructions for Form 720**. If you are making a one-time filing, complete and attach Form 6197 to Form 720, and file the return for the quarter in which you incur liability for the tax. Also, see the Instructions for Form 720 for when to file and how to pay the tax due.

Example. In August 1999, A, an individual, imports a car for personal use. The car has a fuel economy rating of 15 mpg, so A is liable for the gas guzzler tax of \$4,500 (Form 6197, line 9). A meets the three conditions for a one-time filing, that is, does not use the vehicle in a trade or business, is not in the business of importing gas guzzling automobiles, and is not otherwise required to file Form 720. A must file Forms 720 and 6197 for the third quarter of 1999, which are due October 31, 1999. A does not have to deposit the gas guzzler tax of \$4,500 but instead pays with the return. A checks the one-time filing box on Form 720.



Instructions for Form 720

(Rev. January 2002)

Quarterly Federal Excise Tax Return

Section references are to the Internal Revenue Code unless otherwise noted.



Department of the Treasury
Internal Revenue Service

General Instructions

What's New

The following changes are effective after December 31, 2001.

- The tax on sales of luxury passenger vehicles (IRS No. 92) is reduced to 3% of the sales price in excess of \$40,000. See page 5.
- The domestic segment tax on amounts paid for transportation of persons by air (IRS No. 26) increases to \$3.00 per segment for travel that begins in 2002. See page 3.
- The tax on use of international air travel facilities (IRS No. 27) increases for amounts paid during 2002.
- You can now allow an employee or another person to resolve certain tax issues with the IRS. See **Third Party Designee** on page 3.

Purpose of Form

Use Form 720 and attachments to report liability by IRS No. and pay the excise taxes listed on the form.

When To File

You must file a return for each quarter of the calendar year as follows:

Quarter covered	Due by
Jan., Feb., Mar.	April 30
Apr., May, June	July 31
July, Aug., Sept.	October 31
Oct., Nov., Dec.	January 31

If any due date for filing a return falls on a Saturday, Sunday, or legal holiday, you may file the return on the next business day.

Send your return to the IRS using the U.S. Postal Service or a designated private delivery service to meet the "timely mailing as timely filing/paying" rule. See **Private Delivery Services** on page 2.

Floor stocks tax. Report the floor stocks tax on ozone-depleting chemicals (ODCs), IRS No. 20, on the return due by July 31 of each year. The tax payment is due by June 30. See page 6.

Where To File

Send Form 720 to the Internal Revenue Service Center, Cincinnati, OH 45999-0009.

How To File

If you are not reporting a tax that you normally report, enter a zero on the appropriate line in Part I or II (Form 720). Also, if you have no tax to report, write "None" on lines 3 and 5, page 2, Part III, and sign the return.

If you have adjustments to liabilities reported for prior quarters, see **Form 720X**, Amended Quarterly Federal Excise Tax Return. **Do not** enter adjustments on Form 720.

If you attach additional sheets, write your name and EIN on each sheet.

One-Time Filings

If you import for personal use a gas guzzling automobile or a passenger vehicle subject to the luxury tax, you may be eligible to make a one-time filing of Form 720 and Form 6197.

You may make a one-time filing to report the gas guzzler tax or the luxury tax if you meet all of the following conditions:

- You do not use the vehicle in the course of any trade or business;
- You do not import gas guzzling automobiles or luxury passenger vehicles in the course of your trade or business; and
- You are not required to file Form 720 reporting excise taxes for the calendar quarter, except for a one-time filing.

To make a one-time filing:

1. File the return for the quarter in which you incur liability for the tax. See **When To File** above.
2. Pay the tax with the return. No deposits are required.
3. If you are an individual and do not have an employer identification number (EIN), enter your social security number (SSN) on Form 720 in the space for the EIN.
4. Check the one-time filing box above Part I on page 1 of Form 720.

Final Return

File a final return if you have been filing Form 720 and you:

1. Go out of business or
2. Will not owe excise taxes that are reportable on Form 720 in future quarters.



TIP If you are only filing to report zero tax and you will not owe excise tax in future quarters, check the final return box above Part I on page 1 of Form 720. The IRS will then stop sending Package 720 to you each quarter.

Recordkeeping

Keep copies of your tax return, records, and accounts of all transactions to show that the correct tax has been paid. Keep records to support all adjustments claimed and all exemptions at least 4 years from the latest of the following dates:

- When the tax became due,
- When you paid the tax,

- When you claimed an adjustment, or
- When you filed a claim for a refund.

Penalties and Interest

Avoid penalties and interest by filing returns and depositing and paying taxes when due. The law provides penalties for filing a return late; depositing taxes late; paying taxes late; willfully failing to collect and pay tax or file a return; negligence; and fraud. These penalties are in addition to the interest charge on late payments. The penalty for filing a return late will not be imposed if you can show that the failure to file a timely return is due to reasonable cause. Those filing after the due date must attach an explanation to the return to show reasonable cause.

Trust fund recovery penalty. If communications and air transportation taxes are collected but not paid over to the United States Treasury or are willfully not collected, the trust fund recovery penalty may apply. The penalty is the full amount of the unpaid trust fund tax.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an employee of a sole proprietorship, an accountant, or a volunteer director/trustee. A responsible person may also include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

Willfully means voluntarily, consciously, and intentionally. A responsible person acts willfully if he or she knows the required actions are not taking place.

Additional Information

You may find the following publications helpful when preparing Form 720 and the attachments:

- **Pub. 510**, Excise Taxes for 2002, contains definitions and examples that will help you prepare Form 720.
- **Pub. 378**, Fuel Tax Credits and Refunds, has information on nontaxable uses of fuels.
- **Pub. 509**, Tax Calendars for 2002, has deposit and payment due dates for all Federal excise taxes.

Private Delivery Services

You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. The most recent list of designated private delivery services was published by the IRS in October 2001. The list includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, and Second Day Service.
- DHL Worldwide Express (DHL): DHL "Same Day" Service and DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, and FedEx 2Day.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.



Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Unresolved Tax Issues

If you have attempted to deal with an IRS problem unsuccessfully, you should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Your assigned personal advocate will listen to your point of view and will work with you to address your concerns. You can expect the advocate to provide you with:

- A "fresh look" at your new or on-going problem.
- Timely acknowledgment.
- The name and phone number of the individual assigned to your case.
- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, you should provide the following information:

- Your name, address, and employer identification number.
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s) or period(s) (for quarterly returns) involved.
- A detailed description of the problem.
- Previous attempts to solve the problem and the office you contacted.
- A description of the hardship you are facing (if applicable).

You may contact a Taxpayer Advocate by calling a toll-free number, **1-877-777-4778**. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If you prefer, you may call, write, or fax the Taxpayer Advocate office in your area. See **Pub. 1546**, The Taxpayer Advocate Service of the IRS, for a list of addresses and fax numbers.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling **1-800-THE-LOST** (1-800-843-5678) if you recognize a child.

Specific Instructions

Name and Address

The first time you file Form 720, type or print your name, address (including the suite, room, or other unit number), and the quarter ending date (month and year). After that, the IRS will mail you a Package 720 with a preprinted label every quarter. Use the preprinted label on your form. If your address changes, make the corrections on the label and check the address change box above Part I on page 1 of Form 720.

P.O. box. If the Post Office does not deliver mail to the street address and you have a P.O. box, show the box number instead of the street address.

Foreign address. Enter the city, province or state, and country. Follow the country's practice for entering the postal code. **Do not** abbreviate the country name.

Employer Identification Number (EIN)

If the EIN on the label is wrong or you did not receive a preprinted label, enter the correct number. (If you are a one-time filer, you do not need an EIN. See **One-Time Filings** on page 1.) If you do not have an EIN, use **Form SS-4**, Application for Employer Identification Number, to apply for one. You can get this form by calling 1-800-TAX-FORM (1-800-829-3676) or by visiting the IRS Web Site at www.irs.gov. You can ask for an EIN by calling the Tele-TIN phone number for your service center listed in the instructions for Form SS-4.

Signature

Form 720 must be signed by a person authorized by the entity to sign this return.

Third Party Designee

If you want to allow an employee of your business or another person to discuss your Form 720 with the IRS, check the "Yes" box in the **Third Party Designee** section of the return. Also, enter that person's name, phone number, and any five digits that person chooses as his or her personal identification number (PIN). The designation must specify an individual and may not refer to your payroll office or a tax preparation firm.

By checking the "Yes" box, you are authorizing the IRS to call the designated employee or person to answer any questions that may arise during the processing of your return. You are also authorizing the designated person to:

- Give the IRS any information that is missing from your return,
- Call the IRS for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain IRS notices that you have shared with the designee about math errors and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to receive any refund check, bind you to anything (including additional tax liability), or otherwise represent you before the IRS. If you want to expand the designee's authorization, see **Pub. 947**, Practice Before the IRS and Power of Attorney.

Part I

Environmental Taxes

Use **Form 6627**, Environmental Taxes, to figure the environmental taxes on:

- ODCs, IRS No. 98;
- Imported products that used ODCs as materials in the manufacture or production of the product, IRS No. 19; and
- The floor stocks tax on ODCs, IRS No. 20.

Attach Form 6627 to Form 720. The tax rates for these taxes are shown on Form 6627.

Communications and Air Transportation Taxes

Who Must File

The person receiving the payment for communications or air transportation services must collect and pay over the tax and file the return. Enter the amount of tax collected or considered collected for the quarter.

Communications Services (IRS No. 22)

The tax is 3% of amounts paid for local telephone service, toll telephone service, and teletypewriter exchange service.

Transportation of Persons by Air (IRS No. 26)

The tax on transportation of persons by air is made up of the percentage tax and the domestic segment tax.

Percentage tax. The percentage tax is 7.5% for amounts paid for taxable transportation of persons by air.

Domestic segment tax. For amounts paid for each domestic segment of taxable transportation of persons by air, the domestic segment tax is \$3.00 per segment for transportation that begins in 2002.

Rural airports. If a segment is to or from a rural airport, the domestic segment tax does not apply.

Transportation of Property by Air (IRS No. 28)

The tax is 6.25% of amounts paid for transportation of property by air.

Use of International Air Travel Facilities (IRS No. 27)

For amounts paid during 2002, the tax on international flights is:

- \$13.20 per person for flights that begin or end in the United States or
- \$6.60 per person for domestic segments that begin or end in Alaska or Hawaii (applies only to departures).

Fuel Taxes

First taxpayer's report. If you are reporting gallons of gasoline, diesel fuel, and kerosene that may again be subject to tax, you may need to file a first taxpayer's report. The report must contain all the information as shown in the Model Certificate A, Appendix C of Pub. 510.

The person who paid the first tax must:

- Give a copy of the first taxpayer's report to the buyer;
- File the first taxpayer's report with Form 720 for the quarter for which the report relates; and
- Write "EXCISE—FIRST TAXPAYER'S REPORT" across the top of a separate copy of the report, and by the due date of Form 720, send the copy to: Internal Revenue Service Center, Cincinnati, OH 45999-0555.

Diesel Fuel (IRS No. 60). If you are liable for the diesel fuel tax on removal at the terminal rack, report these gallons on line (a) of IRS No. 60. If you are liable for the diesel fuel tax on events other than removal at the terminal rack, report these gallons on line (b) of IRS No. 60.

Multiply the total number of gallons subject to tax on lines (a) and (b) by \$.244 and make one entry in the tax column.

Kerosene (IRS No. 35). If you are liable for the kerosene tax on removal at the terminal rack, report these gallons on line (a) of IRS No. 35. If you are liable for the kerosene tax on events other than removal at the terminal rack, report these gallons on line (b) of IRS No. 35.

Multiply the total number of gallons subject to tax on lines (a) and (b) by \$.244 and make one entry in the tax column.

Liquefied petroleum gas (LPG) (IRS No. 61). Only LPG (such as propane and butane) is reported on the line for IRS No. 61. LPG is taxed at \$.136 per gallon.

Gasoline (IRS No. 62). If you are liable for the gasoline tax on removal at the terminal rack, report these gallons on line (a) of IRS No. 62. If you are liable for the gasoline tax on events other than removal at the terminal rack, report these gallons on line (b) of IRS No. 62. If you are liable for the additional tax on failure to blend or later separation, report these gallons on line (c) of IRS No. 62.

Multiply the total number of gallons subject to tax on lines (a) and (b) by \$.184. Multiply the total number of gallons subject to tax on line (c) by the appropriate rate below. Combine the tax for lines (a), (b), and (c), and make one entry in the tax column.

Additional tax on failure to blend or later separation.

Anyone who purchases gasoline for gasohol production at one of the reduced rates (IRS Nos. 58, 73, and 74) and fails to blend the gasoline with alcohol is subject to an additional tax. Anyone who purchases gasohol at one of the reduced rates (IRS Nos. 59, 75, and 76) and later separates the gasoline from the mixture is subject to an additional tax. The additional tax rates per gallon of gasoline are:

Type of Mixture	Rate of Tax
10% gasohol	\$.03845
7.7% gasohol	.02887
5.7% gasohol	.02092

Report the number of gallons on line (c) of IRS No. 62 and enter the appropriate rate in the **Rate** column of that line. If more than one rate applies, leave the **Rate** column blank and attach a schedule showing the rates and number of gallons taxed at each rate.

Gasoline removed or entered for the production of gasohol (IRS Nos. 58, 73, and 74). Only gasoline removed or entered for the production of gasohol containing ethanol is reported on the lines for IRS Nos. 58, 73, and 74. For gasohol that does not contain ethanol, use the line for IRS No. 79.

Gasohol (IRS Nos. 59, 75, and 76). Only gasohol containing ethanol is reported on the line for IRS Nos. 59,

75, and 76. For gasohol that does not contain ethanol, use the line for IRS No. 79.

Other fuels (IRS No. 79). Use the following table to determine the tax for each gallon. Fill in the number of gallons and the appropriate rate in the **Rate** column on the line for IRS No. 79. If more than one rate applies, leave the **Rate** column blank and attach a schedule showing the rates and number of gallons taxed at each rate.

Fuel	Tax Rate per Gallon
Liquefied natural gas	\$.1190
Qualified—	
Ethanol	.1305
Methanol	.1235
Partially exempt—	
Ethanol produced from natural gas	.1140
Methanol produced from natural gas	.0925
Gasoline removed or entered for the production of—	
10% gasohol (methanol)	.13777
7.7% gasohol (methanol)	.14929
5.7% gasohol (methanol)	.15885
Types of gasohol—	
10% gasohol (methanol)	.1240
7.7% gasohol (methanol)	.1378
5.7% gasohol (methanol)	.1498
Special motor fuels/alcohol mixture containing—	
Ethanol	.1310
Methanol	.1240
Diesel/alcohol mixture containing—	
Ethanol	.1910
Methanol	.1840
Diesel sold for diesel/alcohol mixture containing—	
Ethanol	.21222
Methanol	.2044
Aviation fuel/alcohol mixture containing—	
Ethanol	.0860
Methanol	.0790
Aviation fuel sold for aviation/alcohol mixture containing—	
Ethanol	.09555
Methanol	.08777
Other fuels not shown	.1840

Compressed natural gas (IRS No. 101). Tax is imposed on compressed natural gas (CNG) that is sold for use or used as fuel in a motor vehicle or motorboat. The rate of tax is \$.4854 per thousand cubic feet (determined at standard temperature and pressure).

Retail Tax

Truck, trailer, and semitrailer chassis and bodies, and tractors (IRS No. 33). The tax is 12% (.12) of the sales price on the first retail sale of each unit. The tax applies to:

- Truck chassis and bodies except truck chassis and bodies suitable for use with a vehicle with a gross vehicle weight (GVW) of 33,000 pounds or less,
- Trailer and semitrailer chassis and bodies except trailer and semitrailer chassis and bodies suitable for use with a vehicle with a GVW of 26,000 pounds or less, and
- Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer regardless of GVW.

The sales price of a unit includes the sales price of certain related parts and accessories sold on or in connection with the sale of the unit.

Section 4051(d) tire credit. A tax credit may be taken equal to the amount of tax that has been imposed on each tire that is sold on or in connection with the first retail sale of a taxable vehicle reported on IRS No. 33. Claim the section 4051(d) tire credit on Schedule C, line 11a.

Ship Passenger Tax

Transportation by water (IRS No. 29). A tax is imposed on the operator of commercial ships. The tax is \$3 for each passenger on a commercial passenger ship that has berth or stateroom accommodations for at least 17 passengers if the trip is over 1 or more nights. A voyage extends "over 1 or more nights" if it lasts longer than 24 hours. The tax also applies to passengers on any commercial ship that transports passengers engaged in gambling aboard the ship beyond the territorial waters of the United States. Enter the number of passengers for the quarter on the line for IRS No. 29.

Other Excise Tax

Obligations not in registered form (IRS No. 31). For obligations issued during the quarter, enter the principal amount of the obligation multiplied by the number of calendar years (or portion thereof) during the period beginning on the issue date and ending on the maturity date on the line for IRS No. 31.

Luxury Tax

Passenger vehicles (IRS No. 92). The tax is imposed on the first retail sale of a passenger vehicle and is equal to 3% (.03) of the sales price in excess of \$40,000. The first retail sale includes the use or lease of a vehicle. The tax is paid by the seller of the vehicle.

Add the tax on each sale during the quarter and enter the total on the line for IRS No. 92. See Pub. 510 for more information.



Also, see Pub. 510 for information on applying this tax to electric and clean-fuel-burning vehicles.

Manufacturers Taxes



Do not include the excise tax on coal in the sales price when determining which tax rate to use.

Underground mined coal (IRS Nos. 36 and 37). The tax on underground mined coal is the lower of \$1.10 per ton or 4.4% (.044) of the sales price. Enter on the line for

IRS No. 36 the number of tons of underground mined coal sold at \$25 or more per ton. Enter on the line for IRS No. 37 the total sales price for all sales of underground mined coal sold at a selling price of less than \$25 per ton.

Surface mined coal (IRS Nos. 38 and 39). The tax on surface mined coal is the lower of \$.55 per ton or 4.4% (.044) of the sales price. Enter on the line for IRS No. 38 the number of tons of surface mined coal sold at \$12.50 or more per ton. Enter on the line for IRS No. 39 the total sales price for all sales of surface mined coal sold at a selling price of less than \$12.50 per ton.

Highway-type tires (IRS No. 66). The tax applies only to highway-type tires and is as follows:

1. For tires weighing more than 40 pounds but not more than 70 pounds—\$.15 a pound for each pound over 40 pounds.
2. For tires weighing more than 70 pounds but not more than 90 pounds—\$4.50 plus \$.30 a pound for each pound over 70 pounds.
3. For tires weighing more than 90 pounds—\$10.50 plus \$.50 a pound for each pound over 90 pounds.

Figure the tax for each tire sold and enter the total for the quarter on the line for IRS No. 66.

Gas guzzler tax (IRS No. 40). Use Form 6197, Gas Guzzler Tax, to figure the liability for this tax and attach it each quarter to Form 720. The tax rates for the gas guzzler tax are shown on Form 6197.

Vaccine taxes (IRS No. 97). A tax is imposed on the sale or use of a vaccine manufactured, produced, or entered into the United States at \$.75 per dose if it:

- Contains diphtheria toxoid, tetanus toxoid, pertussis bacteria, extracted or partial cell bacteria, specific pertussis antigens, or polio virus;
- Is against measles, mumps, rubella, hepatitis B, chicken pox, or rotavirus gastroenteritis;
- Is any Hib (haemophilus influenza type B) vaccine; or
- Is any conjugate vaccine against streptococcus pneumoniae.

If any taxable vaccine is combined with one or more additional taxable vaccines, then the tax is imposed on each vaccine included in the combination.

Example. MMR contains three taxable vaccines: measles, mumps, and rubella. The tax per dose on MMR is \$2.25 (3 x \$.75).

Add the tax for each taxable vaccine and enter the total tax on the line for IRS No. 97.

Foreign Insurance Taxes

Policies issued by foreign insurers (IRS No. 30).

Enter the amount of premiums paid during the quarter on policies issued by foreign insurers. Multiply the premiums paid by the rates listed on Form 720 and enter the total for the three types of insurance on the line for IRS No. 30.

Treaty-based return positions under section 6114.

Foreign insurers and reinsurers who take the position that a treaty of the United States overrules, or otherwise modifies, an Internal Revenue law of the United States, must disclose such position. This disclosure must be made once a year on a statement which must report the payments of premiums that are exempt from the excise tax on policies issued by foreign insurers for the previous calendar year. This statement is filed with the 1st quarter Form 720, which is due before May 1 of each year.

You may be able to use **Form 8833**, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), as a disclosure statement.

How to file. At the top of Form 720, write "Section 6114 Treaty." Provided you have no other transactions reportable on Form 720:

1. Check the one-time filing box on page 1. If this is your final return, check the final return box.
2. Write "None" on lines 1, 3, and 5.
3. Sign the return.

You need an EIN to file Form 720. If you do not have an EIN, use Form SS-4 to apply for one. See **Employer Identification Number (EIN)** on page 3.

Where to file. Mail the Form 720 with the attached statement to: Internal Revenue Service Center, P.O. Box 21086, Philadelphia, PA 19114. Also, see the **Caution** under **Private Delivery Services** on page 2.

Exception. If you are reporting liabilities in Parts I or II (Form 720), follow the instructions above for **How to file**, except mail the Form 720 to: Internal Revenue Service Center, Cincinnati, OH 45999-0009.

Part II

Sport fishing equipment (IRS No. 41). The tax on sport fishing equipment is 10% (.10) of the sales price. The tax is paid by the manufacturer, producer, or importer. Taxable articles include fishing rods and poles (and component parts), reels, fly fishing lines (and other lines not over 130 pounds test), fishing spears, spear guns, spear tips, terminal tackle, fishing supplies and accessories, and any parts or accessories sold on or in connection with these articles. See Pub. 510 for a complete list of taxable articles. Add the tax on each sale during the quarter and enter the total on the line for IRS No. 41.

Electric outboard motors and sonar devices (IRS No. 42). The tax on an outboard motor or a sonar device for finding fish is 3% (.03) of the sales price. The tax is paid by the manufacturer, producer, or importer. The tax is limited to \$30 for each sonar device. Sonar devices for finding fish do not include graph recorders, digital types, meter readouts, or combination graph recorders or combination meter readouts. Add the tax on each sale during the quarter and enter the total on the line for IRS No. 42.

Bows (IRS No. 44). The tax on bows is 11% (.11) of the sales price. The tax is paid by the manufacturer, producer, or importer. It applies to bows having a draw weight of 10 pounds or more. The tax is also imposed on the sale of any part or accessory suitable for inclusion in or attachment to a taxable bow and any quiver suitable for use with arrows described below. Add the tax on each sale during the quarter and enter the total on the line for IRS No. 44.

Arrow components (IRS No. 102). The tax on any shaft, point,nock, or vane is 12.4% (.124) of the sales price for which the component is sold. The tax is paid by the manufacturer, producer, or importer of any component used in the manufacture of any arrow that after assembly measures 18 inches or more in overall length or is less than 18 inches long but is suitable for use with a bow that has a draw weight of 10 pounds or more. Add the tax on each sale during the quarter and enter the total on the line for IRS No. 102.

Alcohol sold as but not used as fuel (IRS No. 51). An excise tax is imposed if the credit was claimed on **Form 6478**, Credit for Alcohol Used as Fuel, and any person later:

1. Uses a mixture or straight alcohol for a purpose other than fuel,
2. Separates the alcohol from the mixture, or
3. Mixes the straight alcohol.

Use the following table to determine the tax for each gallon of alcohol. Fill in the number of gallons and the appropriate rate in the **Rate** column on the line for IRS No. 51. If more than one rate applies, leave the **Rate** column blank and attach a schedule showing the rates and number of gallons taxed at each rate.

IF the alcohol is...	AND...	THEN the tax rate per gallon is...
at least 190 proof	• is ethanol	\$.53
	• is methanol	.60
	• benefited from the small ethanol producer credit	.63
at least 150 proof but less than 190 proof	• is ethanol	\$.3926
	• is methanol	.45
	• benefited from the small ethanol producer credit	.4926

Floor Stocks Tax

Ozone-depleting chemicals floor stocks tax (IRS No. 20). Use Form 6627 to figure the liability for this tax. Enter the amount from Form 6627, Part III, line 4, column (d) on the line for IRS No. 20. Attach Form 6627 to Form 720 that is due July 31 of each year. Deposit the payment by June 30 at an authorized financial institution. See **How To Make Deposits** on page 7.

Part III

Line 4. Report on line 4 of Form 720 the total claims from line 12 of Schedule C. See the instructions on page 8.

Lines 7a and 7b. Include on line 7a the amount from line 10 of your previous return that you applied to this return and the amount from line 7b. If you are applying an amount from line 5b of Form 720X, enter that amount on line 7b.

Line 10. You may have any overpayment refunded or applied to your next return. Include on line 7a of your next return the amount from line 10 you want to have applied to that return.



If you owe other Federal tax, interest, or penalty, the overpayment on line 10 and line 7b will first be applied to the unpaid amounts.

Payment of Taxes

Generally, semimonthly deposits of excise taxes are required. A **semimonthly period** is the first 15 days of a month (the first semimonthly period) or the 16th through the last day of a month (the second semimonthly period).

However, no deposit is required for the situations listed below; the taxes are payable with the return.

- The net liability for taxes listed in Part I (Form 720) does not exceed \$2,500 for the quarter.

- The gas guzzler tax and/or the luxury tax is being paid on a one-time filing. See **One-Time Filings** on page 1.
- The liability is for taxes listed in Part II (Form 720), except for the floor stocks tax, which generally require a single deposit. See **Floor Stocks Tax** on page 6.
- The tax liability is for the removal of a batch of gasohol from an approved refinery by bulk transfer, if the refiner elects to treat itself for that removal as not registered under section 4101. See Regulations section 48.4081-3.

How To Make Deposits

To avoid a penalty, make your deposits timely and do not mail your deposits directly to the IRS. Records of your deposits will be sent to the IRS for crediting to your accounts.

Electronic deposit requirement. You must make electronic deposits of all depository taxes (such as deposits for employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2002 if:

- The total deposits of such taxes in 2000 exceeded \$200,000 or
- You were required to use EFTPS in 2001.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477 or 1-800-945-8400.

Depositing on time. For EFTPS deposits to be on time, you must initiate the transaction at least one business day before the date the deposit is due.

Federal Tax Deposit Coupons. If you are not making deposits by EFTPS, use **Form 8109**, Federal Tax Deposit Coupon, to make the deposits at an authorized financial institution. See the instructions in the coupon book for additional information. If you do not have a coupon book, call 1-800-829-1040.

When To Make Deposits

There are two methods for determining deposits:

- Regular method and
- Alternative method.

The regular method applies to all taxes in Part I of Form 720 except for communications and air transportation taxes (IRS Nos. 22, 26, 27, and 28) if deposits are based on amounts billed or tickets sold, rather than on amounts actually collected. See **Alternative method** below.

Alternative method below.

If you are depositing more than one tax under a method, combine all the taxes under the method and make one deposit for the semimonthly period.

Regular method. The deposit of tax for a semimonthly period is due by the 14th day following that period. Generally, this is the 29th day of a month for the first semimonthly period and the 14th day of the following month for the second semimonthly period. If the 14th or the 29th day falls on a Saturday, Sunday, or legal holiday, you **must** make the deposit by the immediately **preceding** day that is not a Saturday, Sunday, or legal holiday.

Alternative method (IRS Nos. 22, 26, 27, and 28).

Deposits of communications and air transportation taxes may be based on taxes included in amounts billed or tickets sold during a semimonthly period instead of on taxes actually collected during the period. Under the alternative method, the tax included in amounts billed or

tickets sold during a semimonthly period is considered collected during the first 7 days of the second following semimonthly period. The deposit of tax is due by the 3rd banking day after the 7th day of that period.

Example. The tax included in amounts billed or tickets sold for the period June 16-30, 2002, is considered collected from July 16-22, 2002, and must be deposited by July 25, 2002.

To use the alternative method, you must keep a separate account of the tax included in amounts billed or tickets sold during the month and report on Form 720 the tax included in amounts billed or tickets sold and not the amount of tax that is actually collected. For example, amounts billed in December, January, and February are considered collected during January, February, and March and are reported on Form 720 as the tax for the 1st quarter of the calendar year.

The net amount of tax that is considered collected during the semimonthly period must be either:

- The net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or
- One-half of the net amount of tax reflected in the separate account for the preceding month.

Special rule for deposits of taxes in September 2002.

If you are required to make deposits, see the chart below. The special rule does not apply to taxes not required to be deposited (see **Payment of Taxes** on page 6). See Regulations section 40.6302(c)-2 for rules to figure the net tax liability for the deposits due in September.

Additional deposit of taxes in September 2002

Type of Tax (IRS No.)	For the Period		
	Beginning on	Ending on	Due Date
Regular method taxes			
EFTPS ¹	Sept. 16	Sept. 26	Sept. 30
Non-EFTPS	Sept. 16	Sept. 25	Sept. 27
Alternative method taxes (22, 26, 27, and 28) (based on amounts billed)			
EFTPS ¹	Sept. 1	Sept. 11	Sept. 30
Non-EFTPS	Sept. 1	Sept. 10	Sept. 27

¹See **Electronic deposit requirement** above.



For the remaining days in September, be sure to make your deposits by the regular due date.

Amount To Deposit

Deposits of taxes for a semimonthly period must be at least 95% of the amount of net tax liability for that period, unless the safe harbor rule applies. See **Safe Harbor Rule** below.

The **net tax liability** for a semimonthly period is the total liability for the period minus any claims on Schedule C for the period. Net tax liability for a semimonthly period may be figured by dividing the net tax liability for the month by 2, provided this method of computation is used for all semimonthly periods in the calendar quarter.



The net tax liability is not reduced by any amounts from Form 720X.

Safe Harbor Rule

The **safe harbor rule** applies separately to deposits under the regular method and the alternative method. Persons who filed Form 720 for the look-back quarter (the 2nd calendar quarter preceding the current quarter) are considered to meet the semimonthly deposit requirement if the deposit for each semimonthly period in the current quarter is at least $\frac{1}{6}$ (16.67%) of the net tax liability reported for the look-back quarter.

For the semimonthly period for which the additional deposit is required, the additional deposit must be at least $\frac{1}{90}$ (12.23%), $\frac{1}{90}$ (11.12%) for non-EFTPS, of the net tax liability reported for the look-back quarter. Also, the total deposit for that semimonthly period must be at least $\frac{1}{6}$ (16.67%) of the net tax liability reported for the look-back quarter.

Exceptions. The safe harbor rule does not apply to:

- The 1st and 2nd quarters beginning on or after the effective date of an increase in the rate of tax unless the deposit of taxes for each semimonthly period in the calendar quarter is at least $\frac{1}{6}$ (16.67%) of the tax liability you would have had for the look-back quarter if the increased rate of tax had been in effect for that look-back quarter;
- Any quarter if liability includes any tax not in effect throughout the look-back quarter; or
- For deposits under the alternative method, any quarter if liability includes any tax not in effect throughout the look-back quarter and the month preceding the look-back quarter.

Requirements to be met. For the safe harbor rule to apply, you must:

- Make each deposit timely at an authorized financial institution and
- Pay any underpayment for the current quarter by the due date of the return.



The IRS may withdraw the right to make deposits of tax using the safe harbor rule from any person not complying with these rules.

Schedule A—Excise Tax Liability

How to complete. Complete Schedule A to record net tax liabilities for Part I taxes for each semimonthly period in a quarter even if your net liability is under \$2,500.

The following table will help you determine which boxes to complete on Schedule A.

IF you are reporting under the...	THEN you report on line...	AND enter the net tax liability in boxes...
Regular method	1	A–F
Alternative method	2	M–R

If you are reporting more than one type of tax on lines 1 and 2:

1. Add the net tax liability for each tax for each semimonthly period and
2. Enter the total in the applicable box.

Additional rules. Report **communications and air transportation taxes** based on:

- Actual collections on line 1.

- Amounts billed or tickets sold on line 2. The amount of tax to report for a semimonthly period is the net amount that is considered collected during that period.

Example. The amounts billed for communications services from June 1-15, 2002, are considered collected during the period July 1-7, 2002, and are reported for the 3rd quarter of 2002 on Schedule A in box **M**, not the 2nd quarter of 2002.

Reporting tax liability under the special September rule. An additional reporting is required under the special September rule (for the period shown in the chart on page 7) as follows:

<i>Regular method taxes</i>	Enter the tax liability for the period beginning September 16 and ending September 25/26 in the (line 1) Special rule for September box .
<i>Alternative method taxes</i>	Enter the tax included in amounts billed or tickets sold during the period beginning September 1 and ending September 10/11 in the (line 2) Special rule for September box on the 4th quarter return .

For the remaining days in the September period, report the liability as follows:

<i>Regular method taxes</i>	Enter the liability for the period beginning September 26/27 and ending September 30 in box F .
<i>Alternative method taxes</i>	Enter the tax included in the amounts billed or tickets sold for the period beginning September 11/12 and ending September 15 in box M of the 4th quarter return . Enter the tax included in amounts billed or tickets sold during the period beginning September 16 and ending September 30 in box N of the 4th quarter return .

Schedule C—Claims

Complete all information requested for each line, including month income tax year ends and period of claim (or for line 10, earliest and latest date of sale) included in the claim. Your claim will be disallowed if you do not follow the required procedures or do not provide all the required information. See Pub. 378 and Pub. 510 for more information.



You must include in your gross income the amount from line 4 of Form 720 if you took a deduction on your income tax return that included the amount of the taxes and that deduction reduced your income tax liability. See Pub. 378 for more information.

Do not use Schedule C:

- If you are **not** reporting a liability in Part I or Part II of Form 720.
- To claim amounts that you took or will take as a credit on **Form 4136**, Credit for Federal Tax Paid on Fuels, or as a refund on **Form 8849**, Claim for Refund of Excise Taxes, and its separate schedules.
- To request an abatement or refund of interest under section 6404(e) (due to IRS errors or delays) or an abatement of a penalty or addition to tax as a result of erroneous IRS written advice. Use **Form 843**, Claim for Refund and Request for Abatement.
- To make adjustments to liability reported on Forms 720 filed for prior quarters, use Form 720X.

Type of Use Table

The following table lists the nontaxable uses of fuels. You must enter the number from the table in the **Type of use** column as required for lines 1-5 and 10.

No.	Type of Use
1	On a farm for farming purposes
2	Off-highway business (for business use other than in a highway vehicle registered or required to be registered for highway use)
3	Export
4	In a boat engaged in commercial fishing
5	In certain intercity and local buses
6	For diesel fuel, kerosene, and LPG (includes propane or butane) in a qualified local bus
7	In a bus transporting students and employees of schools (school buses)
8	For diesel fuel and kerosene used other than as a fuel in the propulsion engine of a train or diesel-powered highway vehicle (but not off-highway business use)
9	In foreign trade
10	Certain helicopter and fixed-wing air ambulance uses
11	For aviation fuel used other than as a fuel in the propulsion engine of an aircraft
12	In a highway vehicle owned by the United States that is not used on a highway
13	Exclusive use by a nonprofit educational organization
14	Exclusive use by a state, political subdivision of a state, or the District of Columbia
15	In an aircraft or vehicle owned by an aircraft museum
16	In military aircraft
17	For use in the production of special fuels

Claim requirements for lines 1 through 5 and line 8.

The following requirements must be met:

1. The amount of the claim must be at least \$750 (combining amounts on lines 1, 2, 3, 4, 5, and 8). This amount may be met by:
 - a. Making a claim for fuel used during any quarter of a claimant's income tax year or
 - b. Aggregating amounts from any quarters of the claimant's income tax year for which no other claim has been made.
2. Claims must be filed during the first quarter following the last quarter of the claimant's income tax year included in the claim. For example, a calendar year income taxpayer's claim for the first quarter is due June 30 if filed on Form 8849. However, Form 720 must be filed by April 30.
3. Only one claim may be filed for any quarter.
4. The fuel must have been used for a nontaxable use during the **Period of claim**.
5. The ultimate purchaser is the only person eligible to make the claim.

If requirements 1-3 above are not met, see **Annual Claims** on page 10.

Line 1. Nontaxable Use of Gasoline and Gasohol

Allowable uses. The gasoline or gasohol must have been used during the period of claim for type of use 2, 3, 4, 5, 7, or 12. Type of use 2 does not include any personal use or use in a motorboat.

Line 2. Nontaxable Use of Aviation Gasoline

Allowable uses. For line 2b, the aviation gasoline must have been used during the period of claim for type of use 3, 9, 10, or 16.

Line 3. Nontaxable Use of Undyed Diesel Fuel



Line 3 cannot be used to make a claim for diesel fuel used on a farm for farming purposes or for exclusive use by a state or local government. Only registered ultimate vendors may make these claims. See the instructions for line 6 below.

Allowable uses. For line 3a, the diesel fuel must have been used during the period of claim for type of use 2, 3, 6, 7, 8, or 12. Type of use 2 does not include any personal use or use in a motorboat. Type of use 8 includes use as heating oil and use in a motorboat.

Line 4. Nontaxable Use of Undyed Kerosene



Line 4 cannot be used to make a claim for kerosene used on a farm for farming purposes, for exclusive use by a state or local government, or for sales from a blocked pump. Only registered ultimate vendors may make these claims. See the instructions for line 7 on page 10.

Allowable uses. For line 4a, the kerosene must have been used during the period of claim for type of use 2, 3, 6, 7, 8, or 12. Type of use 2 does not include any personal use or use in a motorboat. Type of use 8 includes use as heating oil and use in a motorboat.

Line 5. Nontaxable Use of Aviation Fuel

Allowable uses. For line 5b (aviation fuel taxed at a rate of 21.9 cents a gallon) or line 5c (aviation fuel taxed at a rate of 4.4 cents a gallon), the aviation fuel must have been used during the period of claim for type of use 1, 3, 9, 10, 11, or 16.

Line 6. Sales By Registered Ultimate Vendors of Undyed Diesel Fuel



*To make an ultimate vendor claim on line 6, you are required to have a UV registration number. If you do not have a registration number, you cannot make a claim at this time. Use **Form 637, Application for Registration (For Certain Excise Tax Activities)**, to apply for one.*

Claimant. The registered ultimate vendor of the diesel fuel is the only person eligible to make this claim. Write your UV registration number on the entry line for that number.

Allowable sales. The fuel must have been sold during the **Period of claim** for:

- Use on a farm for farming purposes or
- Use by a state or local government (including essential government use by an Indian tribal government).

Claim requirements. The following requirements must be met:

1. The claim must be for diesel fuel sold during a period that is at least 1 week.
2. The amount of the claim must be at least \$200. To meet this minimum requirement, amounts from line 6 and line 7 may be combined.
3. Claims must be filed by the last day of the first quarter following the earliest quarter of the claimant's income tax year included in the claim. For example, a calendar year income taxpayer's claim for the first quarter is due June 30 if filed on Form 8849. However, Form 720 must be filed by April 30.

Information to be submitted. For claims on line 6, attach a separate sheet with the name and TIN of each farmer, custom harvester, or governmental unit to whom the diesel fuel was sold and the number of gallons sold to each.

If requirements 1-3 above are not met, see **Annual Claims** below.

Line 7. Sales By Registered Ultimate Vendors of Undyed Kerosene



To make an ultimate vendor claim on line 7, you are required to have a **UV** registration number (or **UP** registration number, in the case of sales from a blocked pump). If you do not have a registration number, you cannot make a claim at this time. Use **Form 637, Application for Registration (For Certain Excise Tax Activities)**, to apply for one.

Claimant. The registered ultimate vendor of the kerosene is the only person eligible to make this claim. Write your **UV** registration number on the entry line for that number if you are making a claim on line 7a or 7b. For a claim on line 7c, write your **UP** registration number on the entry line.

Allowable sales. The fuel must have been sold during the **Period of claim**:

- For use on a farm for farming purposes,
- For use by a state or local government (including essential government use by an Indian tribal government), or
- From a blocked pump.

Claim requirements. The following requirements must be met:

1. The claim must be for kerosene sold during a period that is at least 1 week.
2. The amount of the claim must be at least \$100.
3. Claims must be filed by the last day of the first quarter following the earliest quarter of the claimant's income tax year included in the claim. For example, a calendar year income taxpayer's claim for the first quarter is due June 30 if filed on Form 8849. However, Form 720 must be filed by April 30.

Information to be submitted. For claims on lines 7a and 7b, attach a separate sheet with the name and TIN

of each farmer, custom harvester, or governmental unit to whom the kerosene was sold and the number of gallons sold to each.

If requirements 1-3 above are not met, see **Annual Claims** below.

Line 9. Gasohol Blending

Claimant. The person who produced the gasohol is the only person eligible to make this claim.

Allowable use. Gasoline that was taxed at the full rate must have been used to produce gasohol during the **Period of claim** for sale or use in the blender's trade or business.

Claim requirements. The following requirements must be met:

1. The claim must be for gasohol sold or used during a period that is at least 1 week.
2. The amount of the claim must be at least \$200.
3. Claims must be filed by the last day of the first quarter following the earliest quarter of the claimant's income tax year included in the claim. For example, a calendar year income taxpayer's claim for January and February is due June 30 if filed on Form 8849. However, Form 720 must be filed by April 30.

If requirements 1-3 above are not met, see **Annual Claims**.

Annual Claims

If a claim on lines 1-9 was not made for any gallons, an annual claim may be made. Generally, an annual claim is made on Form 4136 for the income tax year during which the fuel was used by the ultimate purchaser, sold by the registered ultimate vendor, or used to produce gasohol. See Form 4136 for more information.

Line 10. Gasoline

Claimant. The person who paid the tax to the government is the only person eligible to make this claim.

Allowable sales. The fuel must have been sold for type of use 3, 4, 9, 13, 14, 16, or 17.

Claim requirement. Generally, the claim must be filed within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later.

Line 11. Other Claims

Use lines 11b-11h for claims relating to taxes listed in the table on page 11. See Pub. 510 for information on allowable claims relating to these taxes. If you need additional space, attach other sheet(s). You must include the following information for each claim.

- A detailed description of the claim.
- Any additional information required by the regulations.
- The amount of the claim.
- How you figured the claim amount.
- Any other information you believe will support the claim.

Claim requirement. Generally, the claim must be filed within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later.

Tax	CRN
Ozone-depleting chemicals (ODCs)	398
Truck, trailer, and semitrailer chassis and bodies, and tractors	383
Passenger vehicles (luxury tax)	392
Highway-type tires	366
Gas guzzler automobiles	340
Vaccines	397
Sport fishing equipment	341
Electric outboard motors and sonar devices	342
Bows	344
Arrow components	370

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on these forms in order to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Miscellaneous excise taxes are imposed under Subtitle D of the Internal Revenue Code. These forms are used to determine the amount of tax that you owe. Section 6011 requires you to provide the requested information. Section 6109 requires you to provide your taxpayer identification number (TIN). Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, and the District of Columbia for use in administering their tax

laws. We may also disclose this information to Federal, state, or local agencies that investigate or respond to acts or threats of terrorism or participate in intelligence or counterintelligence activities concerning terrorism. If you fail to provide this information in a timely manner, you may be liable for penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file these forms and related schedules will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
720	24 hr., 2 min.	1 hr., 17 min.	5 hr., 35 min.
Sch. A	1 hr., 54 min.	—	1 min.
Sch. C	23 hr., 55 min.	18 min.	42 min.
720X	6 hr., 13 min.	18 min.	24 min.
6197	4 hr., 18 min.	12 min.	16 min.
6627	5 hr., 1 min.	6 min.	10 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms and related schedules simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the tax forms to this office. Instead, see **Where To File** on page 1.

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G			Payment of taxes	6	
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			Where to file	1	

Quarterly Federal Excise Tax Return

OMB No. 1545-0023

If you are not using a preprinted label, enter your name, address, employer identification number, and calendar quarter of return. See the separate instructions.

Name

Quarter ending

 Number, street, and room or suite no.
If you have a P.O. box, see page 3.

Employer identification number

City, state, and ZIP code (If you have a foreign address, see page 3.)

FOR IRS USE ONLY

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 Check applicable boxes: ☐ Final return ☐ One-time filing ☐ Address change
Part I

IRS No.	Environmental Taxes (Attach Form 6627.)	Tax	IRS No.		
98	Ozone-depleting chemicals (ODCs)		98		
19	ODC tax on imported products		19		
IRS No.	Communications and Air Transportation Taxes	Tax	IRS No.		
22	Local telephone service, toll telephone service, and teletypewriter exchange service		22		
26	Transportation of persons by air		26		
28	Transportation of property by air		28		
27	Use of international air travel facilities		27		
IRS No.	Fuel Taxes	Number of gallons	Rate	Tax	IRS No.
60	(a) Diesel fuel, tax on removal at terminal rack		\$.244		60
	(b) Diesel fuel, tax on taxable events other than removal at terminal rack		.244		
71	Dyed diesel fuel used in trains		.044		71
78	Dyed diesel fuel used in certain intercity or local buses		.074		78
35	(a) Kerosene, tax on removal at terminal rack		.244		35
	(b) Kerosene, tax on taxable events other than removal at terminal rack		.244		
61	Liquefied petroleum gas (LPG) (such as propane or butane)		.136		61
79	Other fuels (See instructions.)				79
62	(a) Gasoline, tax on removal at terminal rack		.184		62
	(b) Gasoline, tax on taxable events other than removal at terminal rack		.184		
	(c) Gasoline, tax on failure to blend or later separation (See instructions.)				
58	Gasoline removed or entered for production of 10% gasohol		.14555		58
73	Gasoline removed or entered for production of 7.7% gasohol		.15513		73
74	Gasoline removed or entered for production of 5.7% gasohol		.16308		74
59	10% gasohol		.131		59
75	7.7% gasohol		.14319		75
76	5.7% gasohol		.15379		76
69	Aviation fuel		.219		69
14	Aviation gasoline		.194		14
77	Aviation fuel for use in commercial aviation (other than foreign trade)		.044		77
101	Compressed natural gas (taxed at \$.4854 per thousand cubic feet)				101

IRS No.		Rate	Tax	IRS No.	
33	Retail Tax Truck, trailer, and semitrailer chassis and bodies, and tractors	12% of sales price		33	
29	Ship Passenger Tax Transportation by water	Number of persons \$3 per person		29	
31	Other Excise Tax Obligations not in registered form	Amount of obligations \$.01		31	
92	Luxury Tax Passenger vehicles (See instructions.)	Rate 3% of sales price over base amount		92	
36	Manufacturers Taxes Coal—Underground mined	Number of tons Sales price \$1.10 per ton		36	
37		4.4% of sales price		37	
38	Coal—Surface mined	\$.55 per ton		38	
39		4.4% of sales price		39	
66	Highway-type tires (See instructions.)			66	
40	Gas guzzler tax (Attach Form 6197.)			40	
97	Vaccines (See instructions.)			97	
	Foreign Insurance Taxes	Premiums paid	Rate	Tax	IRS No.
	Policies issued by foreign insurers (See instructions.)				
	Casualty insurance and indemnity bonds		\$.04		
30	Life insurance, sickness and accident policies, and annuity contracts		.01		30
	Reinsurance		.01		
1 Total. Add all amounts in Part I. Complete Schedule A unless one-time filing.				\$	

Part II

IRS No.		Rate	Tax	IRS No.	
41	Sport fishing equipment	10% of sales price		41	
42	Electric outboard motors and sonar devices	3% of sales price		42	
44	Bows	11% of sales price		44	
102	Arrow components	12.4% of sales price		102	
		Number of gallons	Rate	Tax	IRS No.
64	Inland waterways fuel use tax		\$.244		64
51	Alcohol sold as but not used as fuel (See instructions.)				51
	Floor Stocks Tax		Tax	IRS No.	
20	Ozone-depleting chemicals (floor stocks) (Attach Form 6627.)			20	
2 Total. Add all amounts in Part II.				\$	

Part III

3	Total tax. Add line 1, Part I, and line 2, Part II	3	
4	Claims (See instructions. Complete Schedule C.)	4	
5	Subtract line 4 from 3. If the result is less than zero, enclose the amount in parentheses	5	
6	Deposits made for the quarter.	6	
7a	Overpayment from previous quarters	7a	
b	Enter the amount from Form 720X included on line 7a, if any	7b	
8	Total of lines 6 and 7a	8	
9	Balance Due. If line 5 is greater than line 8, enter the difference. This amount must be paid with the return. Enclose check or money order for full amount payable to the "United States Treasury." Write your EIN, "Form 720," and the quarter on it	9	
10	Overpayment. If line 8 is greater than line 5, enter the difference. If you have an entry that is less than zero on line 5, combine line 5 and line 8. Check if you want the overpayment:	10	

☐ **Applied to your next return, or** ☐ **Refunded to you.**

Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see page 3 of the separate instructions)? <input type="checkbox"/> Yes. Complete the following. <input type="checkbox"/> No.		
	Designee name	Phone no.	Personal identification number (PIN)
Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.		
	Signature	Date	Title
Type or print name below signature.		Telephone number ()	

Schedule A **Excise Tax Liability** (See page 8 of the instructions.)

Note: You must complete Schedule A if you have a liability for any tax in Part I of Form 720. Do not complete Schedule A for Part II taxes (sport fishing equipment, electric outboard motors and sonar devices, bows, arrow components, inland waterways fuel use, alcohol sold but not used as fuel, or any floor stocks tax) or for one-time filings.

1 Regular method taxes

(a) Record of Net Tax Liability	Period					
	1st-15th day		16th-last day			
First month	A		B			
Second month	C		D			
Third month	E		F			
Special rule for September*	▶					
(b) Net liability for regular method taxes. Add the amounts for each semimonthly period.						

2 Alternative method taxes (IRS Nos. 22, 26, 28, and 27)

(a) Record of Taxes Considered as Collected	Period					
	1st-15th day		16th-last day			
First month	M		N			
Second month	O		P			
Third month	Q		R			
Special rule for September*	▶					
(b) Alternative method taxes. Add the amounts for each semimonthly period.						

*Complete only as instructed. See page 8.

Schedule C Claims

Month your income tax year ends ►

- **Complete Schedule C for claims *only* if you are reporting liability in Part I or II of Form 720.**
- Attach a statement explaining each claim as required. Include your name and EIN on the statement. See page 8 of the instructions.

1 Nontaxable Use of Gasoline and Gasohol

Period of claim ►

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Gasoline	\$.184			362
b	10% gasohol	.131			359
c	7.7% gasohol	.14319			375
d	5.7% gasohol	.15379			376

2 Nontaxable Use of Aviation Gasoline

Period of claim ►

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Used in commercial aviation (other than foreign trade)	\$.15			354
b	Other nontaxable use	.194			324

3 Nontaxable Use of Undyed Diesel Fuel

Period of claim ►

Claimant has the name and address of the person(s) who sold the diesel fuel to the claimant and the date(s) of the purchase(s) and if exported, the required proof of export.

Claimant certifies that the diesel fuel did not contain visible evidence of dye.

Exception. If any of the diesel fuel included in this claim **did** contain visible evidence of dye, attach a detailed explanation and check here . ► ☐

Caution: Claims cannot be made on line 3 for diesel fuel used on a farm for farming purposes or for exclusive use by a state or local government.

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Nontaxable use	\$.244			360
b	Use in trains	.20			353
c	Use in certain intercity and local buses	.17			350

4 Nontaxable Use of Undyed Kerosene

Period of claim ►

Claimant has the name and address of the person(s) who sold the kerosene to the claimant and the date(s) of the purchase(s) and if exported, the required proof of export.

Claimant certifies that the kerosene did not contain visible evidence of dye.

Exception. If any of the kerosene included in this claim **did** contain visible evidence of dye, attach a detailed explanation and check here . ► ☐

Caution: Claims cannot be made on line 4 for kerosene used on a farm for farming purposes, for exclusive use by a state or local government, or for sales from a blocked pump.

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Nontaxable use	\$.244			346
b	Use in trains	.20			348
c	Use in certain intercity and local buses	.17			347

5 Nontaxable Use of Aviation Fuel

Period of claim ►

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Use in commercial aviation (other than foreign trade)	\$.175			355
b	Other nontaxable use	.219			369
c	Other nontaxable use	.044			377

6 Sales by Registered Ultimate Vendors of Undyed Diesel Fuel

Period of claim ►

UV Registration Number ►

Claimant sold the diesel fuel at a tax-excluded price, repaid the amount of tax to the buyer, or has obtained written consent of the buyer to make the claim; and obtained the required certificate from the buyer and has no reason to believe any information in the certificate or statement is false. See the instructions for additional information to be submitted.

Claimant certifies that the diesel fuel did not contain visible evidence of dye.

Exception. If any of the diesel fuel included in this claim **did** contain visible evidence of dye, attach a detailed explanation and check here . ► ☐

	Rate	Gallons	Amount of claim	CRN
a	\$.244			360
b	.244			

7 Sales by Registered Ultimate Vendors of Undyed Kerosene

Period of claim ▶ _____
 UV Registration Number ▶ _____
 UP Registration Number ▶ _____

Claimant sold the kerosene at a tax-excluded price, repaid the amount of tax to the buyer, or has obtained the written consent of the buyer to make the claim; and obtained the required certificate (for lines 7a and 7b) from the buyer or has the statement required by Regulations section 48.6427-10(e)(4) (for line 7c) and has no reason to believe any information in the certificate or statement is false. See the instructions for additional information to be submitted.

Claimant certifies that the kerosene did not contain visible evidence of dye.

Exception. If any of the kerosene included in this claim **did** contain visible evidence of dye, attach a detailed explanation and check here. ▶ ☐

	Rate	Gallons	Amount of claim	CRN
a Use on a farm for farming purposes	\$.244			346
b Use by a state or local government	.244			
c Sales from a blocked pump	.244			

8 Use of LPG in Certain Buses

Period of claim ▶ _____

	Rate	Gallons	Amount of claim	CRN
a Certain intercity and local buses	\$.062			352
b Use in qualified local buses	.136			361
c Use in school buses	.136			

9 Gasohol Blending

Period of claim ▶ _____

Claimant certifies that it bought gasoline taxed at the full rate and blended it with alcohol to make gasohol. The gasohol was sold or used in claimant's trade or business. For **each batch** of gasohol, claimant has the required information relating to the purchase of the gasoline and alcohol used to make the gasohol and to support the amount claimed.

	Type of gasohol	Rate	Gallons of		Amount of claim (rate x gals. of gasoline)	CRN
			Gasoline	Alcohol		
a	10% gasohol	\$.03845				356
b	7.7% gasohol	.02887				357
c	5.7% gasohol	.02092				363

10 Gasoline

Earliest date of sale included in claim ▶ _____

Latest date of sale included in claim ▶ _____

Claimant sold the gasoline, gasohol, or aviation gasoline at a tax-excluded price, repaid the amount of the tax to the ultimate vendor, or has obtained the written consent of the ultimate vendor to make the claim; and has the required supporting information.

	Type of use	Rate	Gallons	Amount of claim	CRN
a	Gasoline	\$.184			362
b	10% gasohol	.131			359
c	7.7% gasohol	.14319			375
d	5.7% gasohol	.15379			376
e	Aviation gasoline	.194			324

11 Other claims. See page 10 of the instructions.

For claims under section 6416(b)(2) relating to certain uses and resales of certain articles subject to manufacturers or retailers taxes, claimant sold the article at a tax-excluded price, repaid the amount of tax to the ultimate vendor, or has obtained the written consent of the ultimate vendor to make the claim.

	Amount of claim	CRN
a Section 4051(d) tire credit		366
b		
c		
d		
e		
f		
g		
h		

12 Total claims. Add all amounts on lines 1-11. Enter the result here and on page 2, Part III, line 4 of Form 720.

12



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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Excise Industry Specialist: Jim Wheatly, Revenue Agent, Telephone Number: 904-665-1269

Internal Revenue Service Luxury Tax: Summary

A. Background: Gas Guzzler IRC 4001

Explanation of Tax:

The Luxury tax is a tax on a manufacturer or importer on the 1st retail sale or use of any passenger vehicle for which the sale price is (or would be) over a stated value.

Forms: F-720 Quarterly Federal Excise Tax Return. Publication: P-510 Excise Taxes.

B. APPLICABLE LAW:

Internal Revenue Code (IRC) section 4001 imposes the Luxury tax. The tax is equal to a stated percent of the price for which the vehicle is sold to the extent such price exceeds the applicable amount.

The applicable amount and tax rate vary by year, as shown in the chart below.

The tax rate and applicable amounts (thresholds) are as follows:

Year	Threshold Amount	Percentage
1993 and Prior	\$30,000	10%
1994	\$32,000	10%
1995	\$32,000	10%
1-1-96 – 8-26-96	\$34,000	10%
8-27-96 – 12-31-96	\$34,000	9%
1997	\$36,000	8%
1998	\$36,000	7%
1999	\$36,000	6%
2000	\$38,000	5%
2001	\$38,000	4%
2002	\$40,000	3%

The tax is scheduled to expire on December 31, 2002.

For purposes of this tax, the "passenger vehicle" means any 4-wheeled vehicle:

which is manufactured primarily for use on public streets, roads, and highways, and

which is rated at 6,000 pounds unloaded gross vehicle weight or less.

Luxury Tax: Summary (cont.)

SPECIAL RULES.

TRUCKS AND VANS.--In the case of a truck or van, substitute "gross vehicle weight" for "unloaded gross vehicle weight".

LIMOUSINES.--In the case of a limousine the tax shall be applied without regard to the weight limitation.

Price:

The price is the total consideration, paid in property, money, or services. Total consideration includes all preparation charges; including insurance, transportation, delivery, packaging, installation, and other charges involved in placing the article into service. Also included are parts and accessories, and other fees and taxes - except as follows:

- separately stated State title, registration, or license fees
- optional extended insurance or warranty, separately stated
- rebate amount
- lease acquisition charge
- any used components furnished by first user
- luxury tax

The Luxury tax is generally imposed on the first sale, lease, or use of an imported article, even if the article is a used article at the time of import.

C. EXEMPTIONS:

The tax shall not apply to qualified clean fuel vehicles.

EXCEPTIONS FOR TAXICABS, ETC.--

The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

EXEMPTION FOR LAW ENFORCEMENT USES, ETC.--

No tax shall be imposed by this section on the sale of any passenger vehicle-

to the Federal Government, or a State or local government, for use exclusively in police, fire fighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

to any person for use exclusively in providing emergency medical services.

Exempt sales require the seller to be in receipt of a statement or certificate of exemption - accepted in good faith.

Effective January 1, 1993, demonstrator use of a vehicle prior to the first retail sale is not a taxable use.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

February 6, 2002

CCD-02-04 (ICI) <sup>OFFICE OF
AIR AND RADIATION</sup>

Dear Independent Commercial Importer:

Subject: Announcement of ICI Workshop on March 27, 2002, 1-4 PM at EPA and Guidelines for Certification, Fuel Economy and Final Entry of ICI Vehicles

Background

The Certification and Compliance Division (CCD) of the U.S. Environmental Protection Agency (EPA) recently conducted a review of the certification, fuel economy and final entry practices used by Independent Commercial Importers (ICIs). Our review uncovered several on-going compliance issues. For example, we discovered that the correct 50,000 and 100,000 mile emission data for vehicles certified to Tier 1 emission standards on both the certification "summary sheet" in their application for certification and the EPA final admission form were missing in some submissions. We also discovered that the appropriate fees for some certification and modification/test vehicles entering the U.S. are not being paid; ref. the guidance provided in EPA's manufacturer guidance letter CD-92-07, dated July 7, 1992 (available at www.epa.gov/otaq/cert/dearmfr/dearmfr.htm or www.epa.gov/otaq/guidance.htm). Several other compliance issues were also discovered. To assist ICIs in understanding the EPA compliance process, we have scheduled a workshop, described in more detail below. The remainder of this letter provides certification, fuel economy and final entry guidance, so that new ICIs will have correct instructions and existing ICIs may immediately correct any deficiencies.

The following guidance documents are enclosed with this letter:

1. Small Volume Manufacturer/ICI Initial Communication, dated January, 2002.
2. EPA guidance letter from Ms. Jane Armstrong, EPA to Mr. Peter Di Bernardi, dated April 14, 1999, as provided to all ICIs.
3. Example of an ICI Certification Summary Sheet.
4. Example of a properly completed final admission form (EPA Form 3520-8), as revised in November, 2001. (These forms are available from Len Lazarus at (202) 564-9281, or by emailing your request to lazarus.leonard@epa.gov.)
5. An EPA Contact List for ICIs.
6. EPA Motor Vehicle and Engine Compliance Program Fee Filing form, revised 12/01, available at www.epa.gov/otaq/cert/dearmfr/feeform.pdf.

Announcement of EPA Workshop for ICIs on March 27, 2002:

EPA will conduct a workshop for ICIs and potential ICIs on March 27, 2002, from 1 to 4 PM at the EPA National Vehicles and Fuel Emissions Laboratory Office Building, 2000 Traverwood Drive, Ann Arbor, Michigan. The purpose of the workshop is to provide an overview of EPA's certification, fuel economy, and import procedures for ICIs. We intend to cover 1) the information in this letter; 2) the fee payment process; 3) payment of overdue fee payments; 4) the final admission process for certified and modification/test vehicles; and 5) an informal question and answer session where EPA responds to questions from the audience.

We encourage ICIs to attend in person, however if you are unable to, you may participate via teleconference. If you would like to dial in, please contact John LaCroix at (734)214-4463 to reserve a telephone line.

Overview of EPA Certification and Fuel Economy Programs:

Enclosure 1, listed above, provides a summary of the EPA certification and fuel economy procedures which we recommend be followed by ICIs to obtain future certificates. ICIs who follow the guidance in this document can expect quicker review time by EPA when reviewing applications and issuing certificates. Previous versions of this guidance document were sent to ICIs in the 1970's and 1980's (and have been sent to new small volume manufacturers from the 1970's through the present time). Because many new ICIs have begun certifying and importing vehicles in the past several years, EPA is once again providing this (updated) guidance document to ICIs.

As explained in the Enclosure 1, it is requested that all ICI's provide answers to the 14 questions¹ contained in Section C of Enclosure 1, once each year. If you have not already submitted answers to these questions for your 2002 program, you should submit them as soon as possible. Satisfactory answers to the questions are requested (in addition to the information required in your Part 1 and Part 2 application for certification) in order for EPA to more efficiently issue future 2002 and later certificates of conformity.

Determining Compliance with Tier 1 and NLEV Emission Standards:

During our review of ICI certification practices, we discovered that the correct 50,000 and 100,000/120,000 mile emission data for vehicles certified to Tier 1 emission standards were not submitted in some applications for certification, as required under the provisions of 40 CFR 86.1844-01(d)(7). Many applications included only 50,000 mile compliance levels. [Emission standards for Tier 0, Tier 1, NLEV and Tier 2 light-duty vehicles and trucks are contained in the

¹Answers to these questions are requested under the authority contained in the provisions of 40 CFR 86.1848-01 and 85.1504(a)(1)(ix). This information is needed prior to submitting your first application for certification, for each certificate model year.

provisions of 40 CFR Parts 85.1515² and in 40 CFR Part 86 and are also available on the internet at www.epa.gov/otaq/stds-ld.htm.] Note that Tier 1 and NLEV light-duty vehicles (passenger cars) must demonstrate compliance with both 5 year/50,000 mile and 10 year/100,000 mile emission standards. In order to demonstrate compliance, the emission data from your test vehicle must be projected to the 50,000 mile and 100,000 mile points using what EPA calls deterioration factors (DFs). Enclosure 1, (page 8, Section A. 7.) contains information about using assigned DFs in lieu of testing a durability vehicle and calculating 50,000 and 100,000/120,000 mile DFs. Note that Tier 1 assigned DFs are different than the Tier 0 assigned DFs contained in EPA Advisory Circular 51C (available from your EPA certification contact person listed in Enclosure 5). Additional information about the assigned DFs (including the regulatory background for the DFs) is contained in Enclosure 1.

As a reminder, ICI's should submit in the application for certification the correct 50,000 and 100,000/120,000 mile emission data for vehicles certified to Tier 1 or NLEV emission standards, as required under the provisions of 40 CFR 86.1844-01(d)(7). ICIs are currently not required to submit computer data to the EPA data base (unlike small and large automobile manufacturers) however, this information is required to be included in the (Part 1 and Part 2) application for certification, ref. 40 CFR 86.1844-01(d) and (e). For ICIs, the application for certification should contain a summary of the emissions test data, city and highway fuel economy (mpg) data, test vehicle description, a description of vehicles covered by the certificate, all emissions test data, the 50,000 and 100,000/120,000 mile DFs, the 50,000 and 100,000/120,000 mile compliance level and the applicable 50,000 and 100,000/120,000 mile emission standards. For your reference, we have included an example of an ICI summary sheet as Enclosure 3. We recommend that the summary sheet in each ICI application should contain the information shown in the example.

Reduced Testing is Available for Some ICI vehicles:

During our review of ICI certification practices, we found that some ICIs may not be following the guidance contained in EPA guidance letter from Ms. Jane Armstrong, EPA to Mr. Peter DiBernardi, dated April 14, 1999, as provided to all ICIs; see Enclosure 2. This guidance letter, issued pursuant to the provisions of 40 CFR 86.1823-01(c), allows ICIs to perform fewer certification tests than would normally be required to obtain a certificate, provided the vehicles being certified meet certain eligibility requirements. To be eligible for reduced certification testing, the vehicles covered by the certificate must be owner-imported vehicles³ (not for resale) which are modified through the installation of OEM parts to be identical to a certified OEM vehicle sold in the United States. Other

²The provisions of 40 CFR 85.1515 contain emission standards for ICI vehicles originally produced in 1968 to 1993 calendar year. For ICI vehicles originally produced in 1994 and later model year, these provisions refer to the applicable emission standards contained in 40 CFR Part 86. Note that National Low Emission Vehicle (NLEV) emission standards apply to ICI vehicles originally produced in 1999 to 2003 calendar years, but only to ICIs who optionally opt-in to the NLEV program. Tier 2 emission standards will apply to ICI vehicles originally produced in 2004 and later calendar years.

³As described in EPA guidance letter from Ms. Jane Armstrong, EPA to Mr. Peter Di Bernardi, dated April 14, 1999, an owner-imported vehicle is one which was imported for the private use of an individual and is not for commercial resale.

eligibility requirements are outlined in Enclosure 2. Reduced testing allows ICIs to obtain a certificate of conformity without performing Cold CO tests, SFTP tests, ORVR tests, and enhanced evaporative emissions tests which includes: 2-day, 3-day, running loss and spitback tests (a substantial cost savings to the ICI).⁴

Fee Payment Process:

In general, ICIs are required to make a fee payment to the U. S. Treasury in advance of any EPA services related to EPA certification activities, pursuant to the provisions of 40 CFR 86.901-93 through 40 CFR 86.911-93, and EPA guidance letter CD-92-07, dated July 7, 1992. Enclosure 1 provides a summary of the EPA fee payment requirements (See page 8, Section E., Motor Vehicle and Engine compliance Program Fees), including a fee waiver process which allows a reduction in the amount of the fee payment required for qualifying manufacturers and ICIs. Enclosure 6 provides the latest version of the EPA fee filing form, which ICIs should begin using immediately.

During our review of ICI certification and fee payment procedures, we discovered that some ICIs may not be paying appropriate fees under the fee waiver provisions for vehicles entering the U.S. Our review also revealed that some ICIs did not follow EPA guidelines when submitting fee waiver requests to EPA, as outlined in EPA guidance letter CD-92-07. For example, some ICIs were requesting a fee waiver for an engine family based on a projected aggregate retail value of "one" vehicle, but were actually importing more than one vehicle. EPA guidance requires the ICI to recalculate the fee waiver amount and pay the additional fees as soon as the ICI realizes that additional vehicles would be entering the country under that certificate. However some ICIs did not recalculate the fee waiver amount or pay any additional fees.

When submitting future fee waiver requests, ICIs should follow the guidance provided in manufacturer guidance letter CD-92-07, July 7, 1992. This guidance requires ICIs to 1) base the value of the original fee waiver request on the aggregate retail sales value of all vehicles projected to be covered under one certificate (including modification and test vehicles) and 2) submit a revised waiver request to EPA and make additional fee payments as soon as the ICI is aware that the original aggregate retail sales value has increased.

We will address in the near future the issue of the overdue fee payments. We request ICIs to begin making the appropriate overdue fee payments to the U. S. Treasury immediately.

Revised EPA Final Admission Form:

⁴ As described in EPA guidance letter from Ms. Jane Armstrong, EPA to Mr. Peter Di Bernardi, dated April 14, 1999, vehicles meeting the eligibility requirements may conduct an FTP (city) test, a highway test, and a two-hour evaporative test using a twin-rolls dynamometer, in lieu of normal EPA testing requirements. One eligibility requirement for reduced testing is that "All emission related components (including the ECM, calibration PROM, all emission and evaporative/refueling control devices, and OBD software and hardware including all sensors and actuators) are the OEM manufacturer's correct OEM parts for the vehicle and are properly installed and fully functional." Another eligibility requirement is that "The OEM manufacturer has a valid, applicable certificate of conformity covering this vehicle built with these OEM components."

To correct the deficiencies noted above, EPA has revised the final admission form (EPA Form 3520-8). The new form will make it easier for ICIs to write in the appropriate emissions test data, and provide EPA with better assurance that the appropriate fee has been paid and the vehicle complies with the applicable emission standards. The new form will be emailed to current ICIs concurrent with or shortly after this letter is emailed to ICIs. If you do not receive a copy of the form, you may request a copy from Len Lazarus at telephone number (202) 564-9281, fax number (202) 565-2057, or by emailing your request to lazarus.leonard@epa.gov. Enclosure 4 contains an example of a properly completed final admission form for a passenger car meeting Tier 1 emission standards.

ICI's should begin using the revised form immediately. Note that the mailing instructions for the form have been revised. The original signed copy of the form must be delivered to Mr. Len Lazarus in our Washington D.C. office and one copy should be faxed or delivered by an overnight courier service to the attention of Ms. Jean England in our Ann Arbor office, fax number (734) 214-4869. For the purposes of 40 CFR 85.1505(c) and 40 CFR 85.1509(i), the date of a certified mail receipt for delivery to Mr. Lazarus shall be deemed to be the official date of notification to EPA, for computing the start of the required 15 working day vehicle hold period. If an ICI telefaxes the form to Mr. Lazarus, then the date of actual receipt of the telefax by Mr. Lazarus or his designee shall be deemed to be the official date of notification to EPA. However, EPA approval for final admission will not be granted unless the original signed copy is also received by Mr. Lazarus or his designee.

Email Address for EPA Guidance Letters:

EPA notes that not all ICIs are currently listed on our email mailing list for EPA guidance letters (which are mailed from our Ann Arbor, Michigan office). Consequently this letter will require special distribution to ensure that it reaches all currently active ICIs. Please provide the appropriate email information to your EPA certification representative so that we can email future EPA guidance letters directly to your company. Instructions for submitting your company's email address(es) to EPA are provided in manufacturer guidance letters CCD-00-19, dated September 15, 2000 and CCD-00-23, dated December 21, 2000. These letters are available on the Internet at <http://www.epa.gov/otaq/cert/dearmfr/dearmfr.htm>.

Summary:

Applications for certification submitted to EPA by ICIs must contain the information outlined in the provisions of 40 CFR 86.1844-01(d) and (e). Additional guidance and advice for submitting these applications for certification is contained in manufacturer guidance letter VPCD-99-06, dated April 22, 1999. Today's letter requests that for future 2002 and later model year ICI certificate requests, ICIs should provide the following information to EPA (in addition to or included in the application for certification, as appropriate):

1. Provide satisfactory answers (once each model year) to the 14 questions contained in Enclosure 1, (page 8, item C., Certification Program Questions), and request EPA approval to use assigned DFs (or another method of generating DFs) for applicable engine family/test group(s).


2. Include a Summary Sheet in each application for certification which demonstrates compliance with applicable emission standards and contains the information similar to the example Summary Sheet provided in Enclosure 3.
3. Make an appropriate fee payment to the U. S. Treasury in advance of any EPA certification activities, as outlined in EPA guidance letter CD-92-07, dated July 7, 1992.
4. Follow EPA guidance when submitting fee waiver requests, as outlined in manufacturer guidance letter CD-92-07, July 7, 1992. Note that the waiver request should be based on the projected aggregate retail value of vehicle(s) imported under or covered by the certificate, not just the value of one vehicle.
5. Provide Cold CO, SFTP data (if required), enhanced evaporative 2-day, 3-day, running loss, and spitback/ORVR data for vehicles which do not meet the eligibility requirements of Enclosure 2.
6. Provide the EPA contact person listed in Enclosure 5 and Ms. Dotti Brayley (brayley.dotti@epa.gov) with your current email address(es) and other information about your company as outlined in manufacturer guidance letter CCD-00-19, dated September 15, 2000.

ICIs should use the following procedure for submitting final admission information to EPA for vehicles entering the country, (for modification and test vehicles as well as certified vehicles) entering the U.S.):

1. Use the most current version of the EPA final admission form (Application for Final Admission of Nonconforming Imported Vehicle or Engine, EPA Form 3520-8). Deliver the original signed copy to our Washington D.C. office and one copy to our Ann Arbor, Michigan office by fax or overnight courier.
2. For vehicles meeting NLEV or Tier 1 emission standards, indicate 50,000 and 100/120,000 mile emission compliance using appropriate DFs on the form, as shown in the example provided in Enclosure 4.
3. Make an appropriate fee payment to the U. S. Treasury prior to submitting the final admission form to EPA Washington D.C. and Ann Arbor, Michigan offices for the particular vehicle entering the country.

If you have any questions about this letter please contact your EPA certification contact person listed in Enclosure 5.

Sincerely,



Gregory A. Green, Director
Certification and Compliance Division
Office of Transportation and Air Quality

Enclosures

MVECP FEE TYPOGRAPHICAL CORRECTION FORM

Manufacturer: _____

Original Engine Family Name
Or Test Group Name:

--	--	--	--	--	--	--	--	--	--	--	--

Original Control System Number
(If Applicable):

Of

Original Payment Date: _____ Check#/Wire/ACH: _____

Revised Engine Family Name
Or Test Group Name:

--	--	--	--	--	--	--	--	--	--	--	--

Revised Control System Number
(If Applicable):

Of

Authorized Company Representative

Date: _____ Telephone: _____

Typed Name: _____ Signature: _____

Reason for Correction:

NOTE: This form is to be used to correct an engine family or a test group name and/or control system # only.

Send to: Environmental Protection Agency
National Vehicle and Fuel Emission Laboratory
Certification & Compliance Division
2565 Plymouth Road
Ann Arbor, MI 48105

EPA Use Only

Approved by: _____ Date: _____

Certification Representative

Date Completed: _____

(NOTE: Original to Processing, Copy to FMD, Copy to Cert Representative)

FEE TYPOGRAPHICAL REQUEST FORM INSTRUCTIONS

Manufacturer:

List the corporate name that submitted initial fee payment.

Original Engine Family Name or Test Group Name:

Enter the original engine family or test group name.

Original Control System Number (if applicable):

Enter the original exhaust emission control system number that identifies the unique engine-system combination. This does not apply to CAP 2000 test groups.

Original Payment Date:

Enter the date of fee payment.

Check#/Wire/ACH:

Please enter check number if paid by check. Enter "wire" or "ACH" if paid by either one of these methods.

Revised Engine Family Name or Test Group Name:

Enter the revised engine family or test group name that will appear on the Certificate of Conformity.

Revised Control System Number (if applicable):

Enter the revised exhaust emission control system number that identifies the unique engine-system combination. This does not apply to CAP 2000 test groups.

Authorized Company Representative:

Enter the date, telephone number, typed name and signature of corporate representative.

Reason for Correction:

Explain reason for correction. A correction should be a revision to a typographical error. To change the model year of an engine family or a test group requires a refund. See MVECP Refund Request Form.

Send fee typographical correction form to:

Environmental Protection Agency
National Vehicle and Fuel Emission Laboratory
Certification & Compliance Division
2565 Plymouth Road
Ann Arbor, MI 48105

U.S. ENVIRONMENTAL PROTECTION AGENCY
MOTOR VEHICLE AND ENGINE COMPLIANCE PROGRAM
FEE FILING FORM
(Please type or print)

Applicant's Corporate Name_____

Address _____

City/State/Zip Code/Country_____

Certification Request Type (check one)	
<input type="checkbox"/> CAP 2000 LDV/LDT (\$27,211)	<input type="checkbox"/> CAP 2000 LDV/LDT CALIF-ONLY (\$8,956)
<input type="checkbox"/> LDV/LDT (\$23,731)	<input type="checkbox"/> LDV/LDT CALIF-ONLY (\$9,127)
<input type="checkbox"/> HDE/HDV (\$12,584)	<input type="checkbox"/> HDE/HDV CALIF-ONLY (\$2,145)
<input type="checkbox"/> HDV/EVAP-ONLY (\$2,145)	<input type="checkbox"/> MOTORCYCLE (\$840)

EPA standard engine family or test group name:												<div></div>					
Exhaust emission control system number:												<div></div>					
{Not applicable (N/A) to CAP 2000 Test Group}												<div></div>		of		<div></div>	
Amount paid (U.S.Fund Only):												<div></div>					
{Make check payable to: <u>"U.S. ENVIRONMENTAL PROTECTION AGENCY"</u> }												<div></div>					
Enter check number, "EFT/WIRE" or "EFT/ACH":												<div></div>					
{Indicate on the <u>check</u> : std. engine family or test group name and control system number}																	
{Indicate in the <u>EFT</u> message field:																	
Location Code# <u>"68-01-0099"</u> , <u>"EPA MVECP Fee"</u> , ABA# <u>"021030004"</u>																	
std.engine family or test group name, control system number, and corporate name)																	

Waiver (only, if applicable and with prior EPA approval)
 Waiver approval number _____ Projected sales volume _____
 Aggregate projected retail sales price: \$ _____ **Amendment?** ☐
For ICI: Vehicle ID No's (VIN): _____ ; _____ ;
 _____ ; _____ ; _____
 (If additional VINs, put on separate page)
 EPA Cert. Representative Approval: _____, Date: ____/____/____

Authorized Company Representative Date: _____

Typed Name: _____ Signature: _____

Title: _____ Telephone: _____

Send all Fee Filing Forms and all **checks and EFT/ACH** payments to:

Environmental Protection Agency
Motor Vehicle and Engine Compliance Program
P.O. Box 954472
St. Louis, MO 63195-4472

Transmit EFT/Wire payments only to the New York Federal Reserve Bank and send the Fee Filing Form for the wire to the above address.

Fee Filing Form Instructions**Corporate Name and Address**

List the applicant's corporate name and corporate address which will appear on the Certificate of Conformity.

Certification Request Type

Check the box which specifies the certification request type.

EPA Standard Engine Family or Test Group Name

Enter the appropriate EPA standardized engine family or test group name that will appear on the Certificate of Conformity.

Exhaust Emission Control System Number (if applicable)

Enter the exhaust emission control system number that identifies the unique engine-system combination.

Amount Paid

Enter the appropriate fee amount for the designated certification request type. The full fee, payable in U.S. dollars, is to accompany the filing form.

Check Number, EFT/ACH, or EFT/WIRE

Enter the number of the corporate check, money order, bank draft, certified check, or enter the letters "EFT/ACH" or "EFT/WIRE" if sending an electronic funds transfer. Indicate the standard engine family or test group name and exhaust emission control system number (if applicable) on the check or EFT. Please contact your certification representative for EFT/ACH payment procedures.

Waiver (only, if applicable)

All fee waiver requests must be submitted in writing and approved by EPA prior to filing this form. EPA will assign a waiver approval number. Enter the waiver approval number, projected sales volume and aggregate projected retail sales price on the fee filing form. Submit the fee waiver payment. If an ICI vehicle, please enter VIN for any vehicles already (or soon to be) in your possession. For any additional VINs, please use a separate page. Check the amendment box only when making changes to the originally approved fee waiver amount, or when adding new VINs.

Authorized Company Representative

Enter the representative's name (typed), signature, title, telephone, number, and date.

Shipment by Private Mail Service (other than U.S. Postal Service)

If the remitter chooses to ship by a private mail service such as Federal Express, Airborne Express, or another shipping service other than the U.S. Postal Service, then the remitter should send the fee payment and fee filing form to:

**Mercantile Bank N.A.
Government Lock Box Division
TRAM#41-2, Operations Center
1005 Convention Plaza
St. Louis, MO. 63101-1200**

MVECP FEE REFUND REQUEST FORM

Manufacturer: _____

Original Engine Family Name
Or Test Group Name:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Original Control System Number
(If Applicable):

Of

Original Payment Date: _____ Check#/Wire/ACH: _____

Amount Paid:

\$

Amount of Refund Requested: (see 40 CFR 86.908-01 for
refund portion)

\$

Reason for refund:

- ☐ This engine family or test group failed to receive EPA certificate (no certificate issued).
- ☐ Manufacturer withdraws request for certification and no certificate will be issued.
- ☐ Other: _____

Make check payable to:

Send to (address):

Authorized Company
Representative

Date: _____ Telephone: _____

Typed Name: _____ Signature: _____

Attach Copy of Original Fee Filing Form and Letter with Supporting Information

Send to: Environmental Protection Agency
National Vehicle and Fuel Emission Laboratory
Certification & Compliance Division
2565 Plymouth Road
Ann Arbor, MI 48105

EPA Use Only

DT# / DM# _____ Check#/Wire/ACH: _____

Approved by: _____ Date: _____
Certification Representative

Date Completed: _____
(NOTE: Original to Processing, Copy to FMD, Copy to Cert Representative)

FEE REFUND REQUEST FORM INSTRUCTIONS

Manufacturer:

List the corporate name that submitted initial fee payment.

Original Engine Family Name or Test Group Name:

Enter the appropriate engine family or test group name.

Original Control System Number (if applicable):

Enter the exhaust emission control system number that identifies the unique engine-system combination. This does not apply to CAP 2000 test groups.

Original Payment Date:

Enter the date of fee payment.

Check#/Wire/ACH:

Please enter check number if paid by check. Enter "wire" or "ACH" if paid by either one of these methods.

Amount Paid:

Enter the original fee payment amount.

Amount of Refund Requested:

See 40 CFR 86.908-01 for the portion of the total fee to be refunded. Enter the appropriate refund amount.

Reason for Refund:

Please check the applicable reason for the refund request. Reasons are explained below:

This engine family or test group failed to receive an EPA certificate (no certificate issued):

Select this only if an engine family or test group failed to receive EPA approval for certification or a request for certification is denied.

Manufacturer withdraws request for certification and no certificate will be issued:

Select this if the request for certification is being withdrawn because this is a back-up family/test group or if there was a change in strategy which results in no certificate issued.

Other: Explain reason for refund if not listed in the above options. A refund must be requested for an engine family or a test group if you wish to change its model year.

Make check payable to:

Enter the applicant's corporate name that submitted the initial fee payment. The fee refund check will be sent to the same manufacturer that made the original fee payment (refer to applicant's name on the original fee filing form).

Sent to (address):

Enter the address that the check should be sent to.

Authorized Company Representative:

Enter the date, telephone number, typed name and signature of corporate representative.

Send fee refund form, a letter requesting the fee refund (w/supporting information) and a copy of the original fee filing form to:

Environmental Protection Agency
National Vehicle and Fuel Emission Laboratory
Certification & Compliance Division
2565 Plymouth Road
Ann Arbor, MI 48105

3/26/02

Additional Information on Fee Payment Procedures:

TO MAIL FEES by U.S. POSTAGE (REGULAR U.S. MAIL SERVICE):

Please mail fee filing form and check to the following address if using regular U.S. mail service (address also shown on fee filing form):

**Environmental Protection Agency
Motor Vehicle and Engine Compliance Program
P.O. Box 954472
St. Louis, MO 63195-4472**

TO SEND FEES by FEDERAL EXPRESS AND OTHER PRIVATE SHIPMENT SERVICES:

If the remitter (manufacturer or ICI) chooses to ship by a private mail service such as Federal Express, Airborne Express, or another shipping service other than the U.S. Postal Service, then the remitter should send the fee payment and fee filing form to:

**US Bank Corp/Mercantile Bank N.A.
Government Lock Box Division
TRAM#41-2, Operations Center
1005 Convention Plaza
St. Louis, MO. 63101-1200
Phone: 314-418-6635**

TO WIRE FEE PAYMENTS:

A remitter's bank sets up a wire transaction. The fee wire payments are sent to the New York Federal Reserve Bank. The bank would need the following information to successfully achieve a wire transfer:

- 1. ABA# 021030004 (for "EPA MVECP Fees")**
- 2. EPA Location Code #68-01-0099**

With the above information a remitter's bank should be able to accomplish the wire transfer. Please contact your certification representative if more information is needed.

Please be sure the correct fee amount is included in the wire payment. This does not include any additional fees a bank may charge to process wire payments.

Remitters of wire transfers should include in the message field engine family/test group information as described in 3.2.3 of the Guidance letter (CD-92-07) on fees. For example, if the

remitter wants to combine several fees (up to six fees) the message field should be as follows:

Cols. 1-12 EPA Std. Engine Family Name or Test Group Name (Fee#1)

Col. 13 System Number

Cols. 14-25 EPA Std. Engine Family Name or Test Group Name (Fee#2)

Col. 26 System Number

Cols. 27-38 EPA Std. Engine Family Name or Test Group Name (Fee#3)

Col.39 System Number

Cols. 40-51 Same as above (Fee#4)

Col.52

For all wire payments, please remember to mail Fee Filing Form(s) to the address below (also shown on fee filing form):

**Environmental Protection Agency
Motor Vehicle and Engine Compliance Program
P.O. Box 954472
St. Louis, MO 63195-4472**

NOTE: Allow up to 3-5 business days for fee payments to get processed and credited at EPA.
Wire payment methods may have faster turn-around.

3/26/02

AGENDA

Independent Commercial Importer Workshop

March 27, 2002 1-4PM

- 1:10 Introduction - Dan Harrison
- 1:15 Certification and Compliance Process - Frank Lamitola & Dave Good
- 2:00 40 CFR Part 85 Road Map for ICIs - Len Lazarus
- 2:30 Brief Discussion of ICI Safety Requirements - Dave Good
- 2:35 Gas Guzzler and Luxury Tax Requirements - Jody Jacobs, IRS
- 2:40 EPA Enforcement and Remedies -
 - Civil - David Alexander, EPA OECA - Office of Regulatory Enforcement
 - Criminal - Ozzie Romero, EPA OECA - Criminal Investigation Division
- 3:00 Payment of Fees - Eldert Bontekoe
- 3:30 Questions & Comments from Audience (5 minutes maximum per speaker)
- 4:00 Concluding Remarks - Dan Harrison

Independent Commercial Importers Workshop
Registration Form
3/27/2002
(Please Print)

Name: _____

Company/Organization: _____

Address: _____

Phone Number: _____

Fax Number: _____

E-mail address: _____

1. Do you currently hold a vehicle certificate for the 2002 certification year?
Yes No
2. Approximately how many Certificate requests will you submit for the 2002 certification year? _____
3. Do you have your own test Lab? Yes No
4. If not which test laboratory will you be using (please provide the Lab name and address?)

Lab name: _____

Lab address: _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 14, 2002

The following is a list of independent commercial importers (ICIs) who hold a currently valid certificate of conformity from EPA as of the date of this list. This certificate allows the ICI to import certain nonconforming vehicles into the United States until December 31, 2002. **THE MAKES OR MODELS THAT AN ICI CAN IMPORT ARE LIMITED.** You should contact the ICI to determine if he/she is qualified to import your particular vehicle.

Automobile Concepts
13329-13333 N.E. 17 Avenue
N. Miami, FL 33181
Rep: Ramez Wahab
Phone: (305) 893-1950
Fax: (305) 893-9097
Email: info@ri-ici.com
(BMW, Ferrari, Mercedes and
Porsche only)

Automotive Conversion, Inc.
3043 Brighton Fifth Street
Brooklyn, New York 11235
Rep: Ilya Usherenko
Phone: (718) 332-7844
Fax: (718) 769-4768
Email: bopoh15@aol.com

Auto Enterprises Inc.
28801 Universal Drive
Warren, MI 48092
Rep: Phil Trupiano
Phone: (810) 751-4488
Fax: (810) 751-4751
Email: phil@auto-enterprises.com
(Automobiles only)

Barry W. Taylor Enterprises, Inc.
110 South 23rd Street
Richmond, CA 94804
Rep: Barry Taylor
Phone: (510) 235-3990
Fax: (510) 235-3998

Compliance & Research Services,
Inc.
2 Garfield Street
Linden, New Jersey 07036
Rep: Bob DePalma
Phone: (908) 925-5533
Fax: (908) 925-8281

DC Imports International Inc.
12079 NW 50 Drive
Coral Springs, FL 33076
Rep: Diane Cooke
Phone: (954) 834-0834
Fax: (954) 834-0838
Email: dcimportsintl@dc@aol.com
(Motorcycles only)

Europe Conversions, Inc.
5185 NW 15th Street
Margate, FL 33063
Rep: Andre Palocz
Phone: (954) 975-3130
Fax: (954) 975-3115
Email: info@europeconversions.com

G & K Automotive Conversion
3231 S. Standard Avenue
Santa Ana, CA 92705
Rep: George Gemayel
Phone: (714) 545-9503
Fax: (714) 545-7667
Email: sosi@gkauto.com

J.K. Technologies, L.L.C.
3500 Sweet Air Street
Baltimore, MD 21211
Rep: Jonathan Weisheit
Phone: (410) 366-6332
Fax: (410) 366-7655
Email: convert2us@aol.com

Milwaukee Motorcycle Imports
3144 S. 47th Street
Milwaukee, WI 53219
Rep: Dan Kent
Phone: (414) 321-9607
Fax: (414) 321-9608
Email:
milwaukeeimports@milwpc.com
(Harley Davidsons only)

Northern California Diagnostic
Laboratories, Inc.
2748 Jefferson Street
Napa, CA 94558-4936
Rep: Mike Spencer-Smith
Phone: (707) 258-1753
Fax: (707) 258-1611
Email: ncdl@ncdlinc.com

Vehicle & Engine Emission Testing
Services, Inc.
483 Baldwin Path
Deer Park, NY 11729
Rep: Abner Baravarian
Phone: (631) 428-3515
Fax: (631) 588-9669
Email: mahela@aol.com



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Wallace Environmental
Testing Laboratories
2140 Wirtcrest
Houston, TX 77055
Rep: Les Weaver
Phone: (713) 956-7705
Fax: (713) 956-0104
Email: sales@wallacelab.com

Webautoworld.com Corp.
201a SW 5th Street
Pompano Beach, FL 33060
Rep: Michael Schuttemeyer
Phone: (954) 941-1788
Fax: (954) 941-9415
Email: webautoworld@aol.com

EPA DOES NOT ENDORSE OR RECOMMEND ANY PARTICULAR ICI ON THIS LIST.

EPA cautions that an ICI's capability of bringing a vehicle into conformity with U.S. emission requirements does not guarantee that in individual cases the work will be properly performed. Test documentation for an individual vehicle and other information concerning the quality of modifications will be carefully scrutinized to determine whether such vehicle meets all applicable EPA requirements under the imports regulations.

EPA Workshop for Independent Commercial Importers

ICI Fee Requirements
for
Light-Duty Vehicles/Trucks & Motorcycles

EPA Certification & Compliance Division

March 27, 2002 1-4 PM
Ann Arbor, Michigan

Fee Responsibilities

- Determine the proper amount of the fee
 - Full Fee of \$27,211 for LDV/T, \$840 for MCs
 - Obtain approval for a Waiver Fee of 1% of projected aggregate retail price of all vehicles covered by cert
- Complete the Fee Filing form
- Make payment to address on fee filing form
- If a Waiver fee is paid at cert time, the actual fee of 1% of retail price of vehicles covered must be paid by end of the model year

Waiver Fee Approval

- Fee Waiver request should include:
 - Good faith prediction of the total retail selling price of all vehicles that will be covered by the certificate (including mod and test)
 - A “report card” of the last 5 years of waiver fees which includes:
 - The fee amount paid at certification time,
 - The number of vehicles covered by the certificate including mod and tested (include a list of VIN numbers covered by each certificate)
 - A calculation of the actual final waiver fee due for each certificate
 - A statement when any fee balance due was paid for each certificate for the past 5 years. If amounts are still due, when they will be paid.
- EPA may use the “report card” and other information to determine whether better projection information is required of a manufacturer and may deny a fee waiver request if such data is not provided.

Payment of Past Due Fees

- Manufacturers should complete payment of any past due fees including calculation and payment of final fees due at the end of MY
- EPA will use the “report cards” to establish the amount of fees which are outstanding
- CCD may choose to report manufacturers with outstanding fee balances to the Treasury for collection or OECA for enforcement action



Independent Commercial Importers Workshop

**Office of Air and Radiation
Office of Transportation and Air Quality
Certification & Compliance Division**

March 27, 2002

Welcome



- Dan Harrison
 - - Manager, Vehicle Programs Group
- ICI, OEM, EPA, IRS, DOT
- Compliance Assistance - LD, MC
- Ensure Compliance
- ICIs Important to Environment

Today's Workshop



■ Presenters

■ EPA: Certification & Compliance Division

| Eldert Bontekoe, Dave Good, Frank Lamitola,
Len Lazarus

■ IRS: Jody Jacobs

■ EPA: Office of Enforcement and Compliance Assurance

| Office of Regulatory Enforcement: David Alexander
| Criminal Investigation Division: Ozzie Ramero

Attendees



- EPA: Office of General Counsel
 - Hale Hawbecker
- EPA: Certification & Compliance Division
 - David Dickinson
 - Fred Hart, Bruce Sdunek, Mary Green, Bernd Liebner, Ted Trimble
- Current ICIs
- Future ICIs
- OEMs

Meeting Procedures



- Compliance Assistance
- Clarifying Questions
- Detailed Questions
- Statements & Comments at End
- Individual Meetings
- Workshop Registration Form
- Facility

**Department of Transportation (DOT) Vehicle Importation Guidelines
for Independent Commercial Importers (ICIs)**

3/02

The following provides information concerning the importation of a passenger car, truck, trailer, motorcycle, moped, bus, or MPV built to comply with the standards of a country other than the U.S. or Canada. Importers of motor vehicles must file form HS-7 at the time a vehicle is imported to declare whether the vehicle complies with DOT requirements.

As a general rule, a motor vehicle less than 25 years old must comply with all applicable Federal motor vehicle safety standards (FMVSS) to be imported permanently. Vehicles manufactured to meet the FMVSS will have a certification label affixed by the original manufacturer in the area of the driver-side door. A vehicle without this certification label must be imported as a nonconforming vehicle. In this case, a private importer must contract with a DOT-Registered Importer (RI) and post a DOT bond for one and a half times the vehicle's dutiable value. This bond is in addition to the normal Customs entry bond. Copies of the DOT bond and the contract with an RI must be attached to the HS-7 form. Therefore, if an ICI is not an RI or the importer has not contracted with an RI, the ICI should advise the importer of the need to obtain a contract with an RI before the vehicle is imported. When completing the HS-7 form, the importer will be required to identify the DOT eligibility number that permits entry of the vehicle. The eligibility number represents a decision by NHTSA that a vehicle is capable of being brought into conformity with the FMVSS by an RI. If such a determination has not been made, the importer must state that the RI will petition NHTSA for an eligibility determination.

When petitioning NHTSA, the RI must demonstrate to NHTSA that the vehicle is capable of being modified to comply with the FMVSS. If the petitioned vehicle is not substantially similar to one sold in the U.S., the RI would have to demonstrate that the vehicle, when modified, would comply with the applicable FMVSS. This could involve crash testing several vehicles. Usually a right-hand drive vehicle will fall into this category even though the same model may be sold in the U.S. If the RI cannot demonstrate that the vehicle can be brought into conformity with the FMVSS, the petition will be denied and the vehicle must be exported or destroyed. A list of vehicles previously determined eligible for importation may be obtained from an RI or from the NHTSA web site.

If a vehicle is shipped directly to an ICI at time of importation and the ICI is not an RI, the vehicle must be shipped by a bonded carrier to an RI facility after the ICI has completed its work. Vehicles must be brought into conformity with the FMVSS within 120 days of importation or the DOT bond may be forfeited.

For additional information go to the NHTSA website at:
<http://www.NHTSA.dot.gov/cars/rules/import>
or call Mr. George Entwistle at (202) 366-5291

EPA Workshop for Independent Commercial Importers

Overview of ICI Certification and
Compliance Requirements
for Light-Duty Vehicles/Trucks & Motorcycles

EPA Certification & Compliance Division

March 27, 2002 1-4 PM
Ann Arbor, Michigan

Who Can Become an ICI?

- Your Company needs the Technical Skills & Expertise to Bring Vehicles into Emission Compliance

Need:

- Test Facility (e.g. Single roll dyno capable of measuring Tier 1 emissions, VT shed, etc.)
- Labor pool (Engineers, Mechanics, etc)
- Technical Skills Comparable to an OEM

Certification & Compliance Process

Overview - 18 Step Process

Light-Duty Vehicles/Trucks & Motorcycles

A Written Handout is also provided which
contains the same information
but with less detail

EPA Certification & Compliance Division ₃

Handouts for 3/27/ ICI Workshop

- Agenda
- Introduction
- ICI Workshop Registration Form
- Overview of ICI Certification & Compliance Requirements
- Certification & Compliance Process for ICIs
- 40 CFR Part 85 Roadmap
- DOT Vehicle Importation Guidelines for ICIs; March, 2002
- ICI Fee Requirements
- EPA's Initial Communication Document To ICIs; February ,2002
- EPA Guidance Letter CCD-02-04; February 6, 2002
- Recommended Part1/2 Application Format
- Fee Filing Form
- IRS Gas Guzzler and Luxury tax Information (7 forms & memos)
- CAP 2000 Test Request
- List of Independent Emission Test Laboratories
- List of ICIs who held Certificates as of March 14, 2002
- Regulations, Subparts P, S and T

Step 1 & 2: Send EPA Answers to Initial Communication Letter page 1 of 3

- Step 1: Send a letter to EPA requesting current version of EPA's Initial Communication to ICIs and Small Volume Manufacturers
- Step 2: Send EPA answers to 14 questions in EPA's Initial Communication document.
 - Satisfactory answers are needed before EPA can issue an ICI the first certificate each model year.

Step 2: Current Emission Standards

page 2 of 3

- Must meet U.S. emission standards in effect in the year the vehicle was originally produced, see 40 CFR 85.1515 and 61FR 5842, 2/14/96.
 - Tier 0 = 50K standards
 - Tier 1 = 50K & 100K/120K standards
 - Motorcycle standards are in 40 CFR 86.410-90
- Deterioration Factors (DFs)
 - Required by 40CFR 85.1505(a)(5) & 85.1509(g)(5)
 - May use EPA assigned DFs or
 - OEM's DFs with OEM's permission (if appropriate)

Step 2: Future Tier 2 Requirements

ref §85.1515, Tier 2 Preamble 65 FR 6794-95, 2/10/00

page 3 of 3

ICIs must certify all vehicles to bins in 2004

- LDV/LLDTs must meet Interim Tier 2 standards in 2004
- LDV/LLDTs must meet Tier 2 standards in 2007
- HLDTs/MDPVs must meet Interim standards in 2007
- Small Volume Hardship provisions apply to ICIs.
- ICIs must meet bin \leq to average NO_x standard.
- Can use averaging, banking & trading program.
 - But must have credits in advance or through the year.
 - Must not have a deficit at the end of the year.

Step 3: Gather Certification Information about the Vehicle

Obtain information for the ICI's Part 1 and Part 2 Application for Certification:

- May submit a Freedom-of-Information request to EPA about the OEM's U.S. certified vehicles.
- May obtain information about the vehicle from the OEM, service manuals, and other sources.

Step 4: Begin Preparing the Application for Certification

- Follow format outlined in VPCD-99-06, 4/22/99.
 - Please include table of contents which highlights where to find vehicle/emission control system descriptions, a copy of the fee filing form, Summary Sheet, a copy of EPA ORVR approval letter, OBD approval letter, etc.
- Preferably submit the application on CD, see CCD-00-18 and Enclosure II of CCD-01-24 .
- Include Summary Sheet similar to the example provided in CCD-02-04.

Step 5: Locate a Test Laboratory

- Select a laboratory which meets your needs.
- see www.epa.gov/otaq/consumer/lablist.pdf for a list of independent contract laboratories
 - EPA does not approve laboratories

Step 6: Fee Payment Process

**ref CD-92-07 (7/7/92); CCD-02-04 (2/6/02); and
40CFR 86.901-93 to 86.911-93**

- Fee must be paid before EPA can issue Certificate
 - for Certified & Mod/Test Vehicles
- Fee Waivers (Reduced Fees) are available
 - 1% of retail value of vehicles covered by certificate
 - Please include fees for Mod/Test vehicles on the first certificate issued each model year
- EPA is in the Process of Revising Fee Regulations
 - NPRM expected Spring of 2002

Step 7: ORVR Requirements

ref Clean Air Act Sections 202 (a)(4) and 206(a)(3)

- ICIs must submit safety information about the onboard refueling vapor recovery (ORVR) system as outlined in EPA Guidance letters:
 - **CCD-98-15, dated December 21, 1998**
 - Provide information to both EPA and NHTSA
 - **CCD-00-10, dated August 3, 2000**
 - See section on ORVR Systems on Rebuilt Cars
 - **Expect 2-4 weeks EPA/NHTSA review time**
- **ORVR Phase-In Schedule for ICIs:**

	<u>Cars</u>	<u>LLDT</u>	<u>HLDT</u>	<u>HDV</u>
40%	NA	2001	2004	NA
80%	NA	2002	2005	2005
100%	2000	2003	2006	2006

Step 8: OBD Requirements

ref. 40 CFR 86.1806-01, 86.094-17, and 86.099-17

- Must submit to EPA a description of the On-board Diagnostic (OBD) system in application.
- 1996 & later vehicles:
 - Must have OBD-II (deficiencies allowed)
- 1994 and 1995 vehicles:
 - OBD-II is required , but waivers are available
 - Vehicles must have OBD-I
- OBD not required for motorcycles

Step 9: Certification Testing

ref. 40 CFR Part 86, 40CFR 85.1502(5) & (6), 85.1515(a)

- Normal test requirements include FTP, Hwy, Cold CO, 2-day Evap, 3-day Evap, ORVR, SFTP, CST as applicable when the vehicle was originally produced.
- Reduced testing is available, see CCD-02-04.
 - For eligible vehicles only, explained in CCD-02-04
 - If eligible, perform only FTP, Hwy & 2-hr Evap
 - Not available for vehicles offered for resale
- For motorcycles, only the FTP is required
- Test vehicles must accumulate 1000 miles or more after being modified, ref 40 CFR 86.1831(c).

Step 10: Submit Part 1 Application

ref. 40 CFR85.1505, CFR 86.1844-01(d)

- Follow format outlined in VPCD-99-06, 4/22/99.
 - Also include information in 40 CFR1505(a) (1) to (10)
 - Please include a table of contents which highlights where to find vehicle/emission control system descriptions, a copy of the fee filing form, Summary Sheet, a copy of EPA ORVR approval letter, OBD approval letter, etc.
- Preferably submit the application on CD, see CCD-00-18 and Enclosure II of CCD-01-24 .
- Include Summary Sheet similar to the example provided in CCD-02-04.

Step 11: Obtain EPA Certificate

ref. 40 CFR85.1505, 40 CFR 85.1513

- A certificate is needed for each vehicle engine family/test group and evaporative/refueling family combination you wish to certify.
- Expect one month EPA review time.
- Certification records must be retained for 6 years, ref. 40 CFR 85.1507.

Step 12: Build/Modify Vehicles

page 1 of 2

- Emission-related equipment must be the same in all material respects as the (certified) test vehicle, and as described in the Part 1/Part 2 application for certification.
 - **ref 40 CFR 85.1505 and 40 CFR 85.1513**
- Vehicles must contain:
 - Fuel Economy Labels (Window Stickers)
 - **Required by 40CFR 85.1510 & 600.301-315**
 - Underhood (tune-up) Labels
 - **Must contain ICI name, address, phone number and other information, ref. 40 CFR 85.1510 (c) & 40 CFR 86.1807-01¹⁷**

Step 12: Final Admission Testing

ref. 40 CFR85.1505 and 40 CFR 86.1509; page 2 of 2

- For Certified Cars, Trucks and Motorcycles:
 - Must test every third vehicle (1-300 vehicles)
 - Must test every fifth vehicle (301+ vehicles)
- For Mod/Test Cars, Trucks, & Motorcycles:
 - ICI must hold a certificate for current model year
 - Vehicle must be six years old or older
 - Must test every vehicle

Step 13: Final Admission

ref. 40 CFR 85.1505 and 40 CFR 86.1509

- Submit Form 3520-8 to EPA, ref CCD-02-04
- Pay additional fees if the vehicle shown on the final admission form has not been included in the previous fee waiver amount.
 - Amend previously approved fee waiver form.

Step 14: Customer Requirements

ref. 40 CFR 85.1510(a), (b) and (e); 40 CFR 600.513-91

Must Furnish Customer with:

- **Owners Manual**
 - **include Maintenance Instructions**
- **Warranty Booklet**
- **Warranty Insurance Policy**
 - **Underwritten by a separate Insurance Company**
- **Gas Guzzler Forms**
 - **for vehicles not owned by the ICI**

Step 15: Submit Final Part 1/Part 2

ref. 40 CFR85.1505, 40 CFR 86.1843, 86.1844-01(d) and(e)

- Same as step 10, see VPCD-99-06, 4/22/99.
- Final Part1/Part 2 is due March 31 (90 days after the end of the model year), and includes:
 - Updated Part 1 information
 - Part 2 information required by CFR 86.1844-01(d)
 - The total number of certified and mod/test vehicles which entered the U. S. for the model year
 - Service manuals & technical service bulletins

Step 16: In-Use Requirements

ref. 40 CFR 85.1903 and 40 CFR 85.1904

Must Furnish EPA with:

- Defect Reports (if an emission-related defect occurs on 25 or more vehicles)
- Voluntary Emission Related Recalls
- Quarterly Reports (information about recalls provided to EPA for 6 quarters)

Step 17: Gas Guzzler Requirements

ref. 40 CFR 85.1510(e); 40 CFR 600.513-91

- Pay gas guzzler tax to IRS
 - For certified & mod/test vehicles owned by the ICI
- Give customer the IRS gas guzzler tax forms
 - For certified & mod/test vehicles not owned by ICI

Step 18: CAFE Requirements

ref. 40 CFR 85.1510(f), 40 CFR 600.501-512

- ICI Certificate Holders must submit Corporate Average Fuel Economy (CAFE) Report to EPA
 - Includes certified and mod/test vehicles
- Report due March 31 (90 days after the end of the model year)
- See fuel economy fact sheet at www.epa.gov/otaq/mpg.htm

40 CFR Part 85 Roadmap for Vehicle Independent Commercial Importers (ICIs) including light-duty cars, light-duty trucks, and motorcycles

ICI Process

1. Submit 3520-1 to Customs with the vehicle entry package at time of import.
2. Must obtain a certificate of conformity if vehicle is less than 6 years old (85.1509).
3. Can modify/test the vehicle if it is at least 6 years old (85.1505).
4. File Application for Final Admission form 3520-8 with EPA.
5. Hold the vehicle for 15 working days from receipt of form 3520-8 by EPA, until final admission. The vehicle must be stored at the location specified on form 3520-8 and may not be released by the ICI during this time (85.1505(c), 85.1509(i)).
6. Note: Final admission shall be presumed not to have been granted if a vehicle has not been met the modification, testing, or demonstration requirements of 85.1505 or 85.1509, as applicable (85.1505(b), 85.1509(h))

ICI Responsibilities

Required document - provided to Customs

EPA entry form 3520-1 (85.1504)
<http://epa.gov/otaq/imports/forms/3520-1.pdf>

Required document - provided to EPA

Application for Final Admission form 3520-8 (85.1505(a), 85.1509(g))
incorporates attestations required under Part 85.

Required documents and labeling - provided to the vehicle owner

1. Maintenance and use instructions, emission control and emission related parts lists (85.1510(a))
2. Emission warranties (85.1510(b))
3. Emission labeling (85.1510(c))
4. Fuel economy labeling (85.1510(d))
5. Gas guzzler tax forms (85.1510(e))

ICI Responsibilities (contd.)

Required recordkeeping for 6 years - documents related to:

1. Certification, modification, test, purchase, sale, storage, registration, importation, including the Customs declaration and other federal-required information, parts identification data, initiation of the 15 day hold period, release to the vehicle owner, and manufacture date (85.1507)
2. Vehicle owners (85.1508(b))
3. Maintenance and use instructions, emission warranties, emission labeling, fuel economy labeling (85.1507(a)(6), 85.1507(a)(7), 85.1510)

Additional Requirements

1. Allow and assist EPA inspections, including vehicle retest and copies of records or documents. Vehicles held for 15 working days must be made available for EPA inspection at the storage location specified in the Application for Final Admission form 3520-8 (85.1506, 85.1504(a)(1)(v)).
2. Comply with applicable corporate average fuel economy (CAFE) requirements (85.1510(f)).

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TITLE 49 -- TRANSPORTATION
SUBTITLE B -- OTHER REGULATIONS RELATING TO TRANSPORTATION
CHAPTER V -- NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION
PART 523 -- VEHICLE CLASSIFICATION

49 CFR 523.3

@ 523.3 Automobile.

(a) An automobile is any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and that either--

(1) Is rated at 6,000 pounds gross vehicle weight or less; or

(2) Which--

(i) Is rated more than 6,000 pounds gross vehicle weight, but less than 10,000 pounds gross vehicle weight,

(ii) Is a type of vehicle for which the Administrator determines, under paragraph (b) of this section, average fuel economy standards are feasible, and

(iii) (A) Is a type of vehicle for which the Administrator determines, under paragraph (b) of this section, average fuel economy standards will result in significant energy conservation, or

(B) Is a type of vehicle which the Administrator determines, under paragraph (b) of this section, is substantially used for the same purposes as vehicles described in paragraph (a)(1) of this section.

(b) The following vehicles rated at more than 6,000 pounds and less than 10,000 pounds gross vehicle weight are determined to be automobiles:

(1) Vehicles which would satisfy the criteria in @ 523.4 (relating to passenger automobiles) but for their gross vehicle weight rating.

(2) Vehicles which would satisfy the criteria in @ 523.5 (relating to light trucks) but for their gross vehicle weight rating, and which

(i) Have a basic vehicle frontal area of 45 square feet or less,

(ii) Have a curb weight of 6,000 pounds or less,

(iii) Have a gross vehicle weight rating of 8,500 pounds or less, and

(iv) Are manufactured during the 1980 model year or thereafter.

HISTORY:

[42 FR 38362, July 28, 1977, as amended at 43 FR 12013, Mar. 23, 1978; 44 FR 4493, Jan. 2, 1979]

AUTHORITY:

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976)

NOTES:

NOTES APPLICABLE TO ENTIRE CHAPTER:

CROSS REFERENCE: See 23 CFR, chapter I, subchapter G, Federal Highway Administration, Department of Transportation, for regulations on the certification of vehicle size and weight enforcement and the certification of speed limit enforcement.

276 words

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TRANSPORTATION
PART 523 -- VEHICLE CLASSIFICATION

49 CFR 523.5

@ 523.5 Light truck.

(a) A light truck is an automobile other than a passenger automobile which is either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:

- (1) Transport more than 10 persons;
- (2) Provide temporary living quarters;
- (3) Transport property on an open bed;
- (4) Provide greater cargo-carrying than passenger-carrying volume; or

(5) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

(b) An automobile capable of off-highway operation is an automobile--

- (1) (i) That has 4-wheel drive; or
- (ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) That has at least four of the following characteristics (see Figure 1) calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure--

- (i) Approach angle of not less than 28 degrees.
- (ii) Breakover angle of not less than 14 degrees.
- (iii) Departure angle of not less than 20 degrees.
- (iv) Running clearance of not less than 20 centimeters.

(v) Front and rear axle clearances of not less than 18 centimeters each.

HISTORY:

[42 FR 38362, July 28, 1977, as amended at 43 FR 12013, Mar. 23, 1978; 58 FR 18029, Apr. 7, 1993]

AUTHORITY:

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976)

NOTES:

NOTES APPLICABLE TO ENTIRE CHAPTER:

CROSS REFERENCE: See 23 CFR, chapter I, subchapter G, Federal Highway Administration, Department of Transportation, for regulations on the certification of vehicle size and weight enforcement and the certification of speed limit enforcement.

271 words

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TITLE 49 -- TRANSPORTATION
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CHAPTER V -- NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION
PART 523 -- VEHICLE CLASSIFICATION

49 CFR 523.1

@ 523.1 Scope.

This part establishes categories of vehicles that are subject to title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001 et seq.

HISTORY:

[42 FR 38362, July 28, 1977]

AUTHORITY:

(Sec. 301, Pub. L. 94-163, 80 Stat. 901 (15 U.S.C. 2001))

NOTES:

NOTES APPLICABLE TO ENTIRE CHAPTER:

CROSS REFERENCE: See 23 CFR, chapter I, subchapter G, Federal Highway Administration, Department of Transportation, for regulations on the certification of vehicle size and weight enforcement and the certification of speed limit enforcement.

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CHAPTER V -- NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION
PART 523 -- VEHICLE CLASSIFICATION

49 CFR 523.4

@ 523.4 Passenger automobile.

A passenger automobile is any automobile (other than an automobile capable of off-highway operation) manufactured primarily for use in the transportation of not more than 10 individuals.

HISTORY:

[42 FR 38362, July 28, 1977]

AUTHORITY:

(Sec. 301, Pub. L. 94-163, 80 Stat. 901 (15 U.S.C. 2001))

NOTES:

NOTES APPLICABLE TO ENTIRE CHAPTER:

CROSS REFERENCE: See 23 CFR, chapter I, subchapter G, Federal Highway Administration, Department of Transportation, for regulations on the certification of vehicle size and weight enforcement and the certification of speed limit enforcement.

33 words

Environmental Protection Agency

§ 85.1502

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by the Agency without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

Subpart P—Importation of Motor Vehicles and Motor Vehicle Engines

AUTHORITY: 42 U.S.C. 7522, 7525, 7541, 7542(a) and 7601(a).

SOURCE: 52 FR 36156, Sept. 25, 1987, unless otherwise noted.

§ 85.1501 Applicability.

(a) Except where otherwise indicated, this subpart is applicable to motor vehicles and motor vehicle engines which are offered for importation or imported into the United States and for which the Administrator has promulgated regulations under part 86 prescribing emission standards but which are not covered by certificates of conformity issued under section 206(a) of the Clean Air Act (i.e., which are nonconforming vehicles as defined below), as amended, and part 86 at the time of conditional importation. Compliance with regulations under this subpart shall not relieve any person or entity from compliance with other applicable provisions of the Clean Air Act.

(b) Regulations prescribing further procedures for importation of motor vehicles and motor vehicle engines into the Customs territory of the United States, as defined in 19 U.S.C. 1202, are set forth at 19 CFR 12.73.

(c) References in this subpart to engine families and emission control systems shall be deemed to apply to durability groups and test groups as applicable for manufacturers certifying new light-duty vehicles, light-duty trucks, and Otto-cycle complete heavy-duty vehicles under the provisions of 40 CFR part 86, subpart S.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999; 65 FR 59943, Oct. 6, 2000]

§ 85.1502 Definitions.

(a) As used in this subpart, all terms not defined herein have the meanings given them in 19 CFR 12.73, in the

Clean Air Act, as amended, and elsewhere in parts 85 and 86 of this chapter.

(1) *Act*. The Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

(2) *Administrator*. The Administrator of the Environmental Protection Agency.

(3) *Certificate of conformity*. The document issued by the Administrator under section 206(a) of the Act.

(4) *Certificate holder*. The entity in whose name the certificate of conformity for a class of motor vehicles or motor vehicle engines has been issued.

(5) *The Federal Compliance Testing sequence (FCT)*. The testing sequence that incorporates all of the testing requirements of part 86 applicable at the time of an emissions test conducted pursuant to this subpart.

(6) *FTP*. The Federal Test Procedure at part 86.

(7) *Independent commercial importer (ICI)*. An importer who is not an original equipment manufacturer (OEM) (see definition below) or does not have a contractual agreement with an OEM to act as its authorized representative for the distribution of motor vehicles or motor vehicle engines in the U.S. market.

(8) *Model year*. The manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year; *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year in which a vehicle is modified. A certificate holder shall be deemed to have produced a vehicle or engine when the certificate holder has modified the nonconforming vehicle or engine.

(9) *Nonconforming vehicle or engine*. A motor vehicle or motor vehicle engine which is not covered by a certificate of conformity prior to final or conditional importation and which has not been finally admitted into the United States under the provisions of § 85.1505, § 85.1509 or the applicable provisions of § 85.1512. Excluded from this definition are vehicles admitted under provisions of § 85.1512 covering EPA approved manufacturer and U.S. Government Agency catalyst and O₂ sensor control programs.

(10) *Original equipment manufacturer (OEM)*. The entity which originally

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manufactured the motor vehicle or motor vehicle engine prior to conditional importation.

(11) *Original production (OP) year.* The calendar year in which the motor vehicle or motor vehicle engine was originally produced by the OEM.

(12) *Original production (OP) years old.* The age of a vehicle as determined by subtracting the original production year of the vehicle from the calendar year of importation.

(13) *Running changes.* Those changes in vehicle or engine configuration, equipment or calibration which are made by an OEM or ICI in the course of motor vehicle or motor vehicle engine production.

(14) *United States.* United States includes the Customs territory of the United States as defined in 19 U.S.C. 1202, and the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

(15) *Useful life.* A period of time/mileage as specified in part 86 for a nonconforming vehicle which begins at the time of resale (for a motor vehicle or motor vehicle engine owned by the ICI at the time of importation) or release to the owner (for a motor vehicle or motor vehicle engine not owned by the ICI at the time of importation) of the motor vehicle or motor vehicle engine by the ICI after modification and/or test pursuant to § 85.1505 or § 85.1509.

(16) *Working day.* Any day on which Federal government offices are open for normal business. Saturdays, Sundays, and official Federal holidays are not working days.

(b) [Reserved]

[52 FR 36156, Sept. 25, 1987, as amended at 61 FR 5842, Feb. 14, 1996]

§ 85.1503 General requirements for importation of nonconforming vehicles.

(a) A nonconforming vehicle or engine offered for importation into the United States must be imported by an ICI who is a current holder of a valid certificate of conformity unless an exemption or exclusion is granted by the Administrator under § 85.1511 of this subpart or the vehicle is eligible for entry under § 85.1512.

(b) Final admission shall not be granted unless:

(1) The vehicle or engine is covered by a certificate of conformity issued in the name of the importer under part 86 and the certificate holder has complied with all requirements of § 85.1505; or

(2) The vehicle or engine is modified and emissions tested in accordance with the provisions of § 85.1509 and the certificate holder has complied with all other requirements of § 85.1509; or

(3) The vehicle or engine is exempted or excluded under § 85.1511; or

(4) The vehicle was covered originally by a certificate of conformity and is otherwise eligible for entry under § 85.1512.

§ 85.1504 Conditional admission.

(a) A motor vehicle or motor vehicle engine offered for importation under § 85.1505, § 85.1509 or § 85.1512 may be conditionally admitted into the United States, but shall be refused final admission unless:

(1) At the time of conditional admission, the importer has submitted to the Administrator a written report that the subject vehicle or engine has been permitted conditional admission pending EPA approval of its application for final admission under § 85.1505, § 85.1509, or § 85.1512. This written report shall contain the following:

(i) Identification of the importer of the vehicle or engine and the importer's address and telephone number;

(ii) Identification of the vehicle or engine owner and the vehicle or engine owner's address, telephone number and taxpayer identification number;

(iii) Identification of the vehicle or engine;

(iv) Information indicating under what provision of these regulations the vehicle or engine is to be imported;

(v) Identification of the place where the subject vehicle or engine will be stored until EPA approval of the importer's application to the Administrator for final admission;

(vi) Authorization for EPA Enforcement Officers to conduct inspections or testing otherwise permitted by the Act or regulations thereunder;

(vii) Identification, where applicable, of the certificate by means of which the vehicle is being imported;

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(viii) The original production year of the vehicle; and

(ix) Such other information as is deemed necessary by the Administrator.

(b) Such conditional admission shall not be under bond for a vehicle or engine which is imported under § 85.1505 or § 85.1509. A bond will be required for a vehicle or engine imported under applicable provisions of § 85.1512. The period of conditional admission shall not exceed 120 days. During this period, the importer shall store the vehicle or engine at a location where the Administrator will have reasonable access to the vehicle or engine for his/her inspection.

§ 85.1505 Final admission of certified vehicles.

(a) A motor vehicle or engine may be finally admitted into the United States upon approval of the certificate holder's application to the Administrator. Such application shall be made either by completing EPA forms or by submitting the data electronically to EPA's computer, in accordance with EPA instructions. Such application shall contain:

(1) The information required in § 85.1504(a);

(2) Information demonstrating that the vehicle or engine has been modified in accordance with a valid certificate of conformity. Such demonstration shall be made in one of the following ways:

(i) Through an attestation by the certificate holder that the vehicle or engine has been modified in accordance with the provisions of the certificate holder's certificate, and presentation to EPA of a statement by the appropriate OEM that the OEM will provide to the certificate holder and to EPA information concerning running changes to the vehicle or engine described in the certificate holder's application for certification, and actual receipt by EPA of notification by the certificate holder of any running changes already implemented by the OEM at the time of application and their effect on emissions; or

(ii) Through an attestation by the certificate holder that the vehicle or engine has been modified in accordance

with the provisions of the certificate holder's certificate of conformity and that the certificate holder has conducted an FTP test, at a laboratory within the United States, that demonstrates compliance with Federal emission requirements on every third vehicle or third engine imported under that certificate within 120 days of entry, with sequencing of the tests to be determined by the date of importation of each vehicle or engine. Should the certificate holder have exceeded a threshold of 300 vehicles or engines imported under the certificate without adjustments or other changes in accordance with paragraph (a)(3) of this section, the amount of required FTP testing may be reduced to every fifth vehicle or engine. In order to make a demonstration under paragraph (a)(2)(i) of this section, a certificate holder must have received permission from the Administrator to do so:

(3) The results of every FTP test which the certificate holder conducted on the vehicle or engine. Should a subject vehicle or engine have failed an FTP at any time, the following procedures are applicable:

(i) The certificate holder may either:

(A) Conduct one FTP retest that involves no adjustment of the vehicle or engine from the previous test (e.g., adjusting the RPM, timing, air-to-fuel ratio, etc.) other than adjustments to adjustable parameters that, upon inspection, were found to be out of tolerance. When such an allowable adjustment is made, the parameter may be reset only to the specified (i.e., nominal) value (and not any other value within the tolerance band); or

(B) Initiate a change in production (running change) under the provisions of 40 CFR 86.084-14(c)(13) or 86.1842-01, as applicable, that causes the vehicle to meet Federal emission requirements.

(ii) If the certificate holder chooses to retest in accordance with paragraph (a)(3)(i)(A) of this section:

(A) Such retests must be completed no later than five working days subsequent to the first FTP test;

(B) Should the subject vehicle or engine fail the second FTP, then the certificate holder must initiate a change in production (a running change) under

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the provisions of 40 CFR 86.084-14(c)(13) or 86.1842-01, as applicable, that causes the vehicle to meet Federal emission requirements.

(iii) If the certificate holder chooses to initiate a change in production (a running change) under the provisions of 40 CFR 86.084-14(c)(13) or 86.1842-01 as applicable, that causes the vehicle to meet Federal requirements, changes involving adjustments of adjustable vehicle parameters (e.g., adjusting the RPM, timing, air/fuel ratio) must be changes in the specified (i.e., nominal) values to be deemed acceptable by EPA.

(iv) Production changes made in accordance with this section must be implemented on all subsequent vehicles or engines imported under the certificate after the date of importation of the vehicle or engine which gave rise to the production change.

(v) Commencing with the first vehicle or engine receiving the running change, every third vehicle or engine imported under the certificate must be FTP tested to demonstrate compliance with Federal emission requirements until, as in paragraph(a)(2)(ii) of this section, a threshold of 300 vehicles or engines imported under the certificate is exceeded, at which time the amount of required FTP testing may be reduced to every fifth vehicle or engine.

(vi) Reports concerning these running changes shall be made to both the Manufacturers Operations and Certification Divisions of EPA within ten working days of initiation of the running change. The cause of any failure of an FTP shall be identified, if known;

(4) The applicable deterioration factor;

(5) The FTP results adjusted by the deterioration factor;

(6) Such other information that may be specified by applicable regulations or on the certificate under which the vehicle or engine has been modified in order to assure compliance with requirements of the Act;

(7) All information required under § 85.1510;

(8) An attestation by the certificate holder that the certificate holder is responsible for the vehicle's or engine's compliance with Federal emission requirements, regardless of whether the

certificate holder owns the vehicle or engine imported under this section;

(9) The name, address and telephone number of the person who the certificate holder prefers to receive EPA notification under § 85.1505(c); and

(10) Such other information as is deemed necessary by the Administrator.

(b) EPA approval for final admission of a vehicle or engine under this section shall be presumed not to have been granted if a vehicle has not been properly modified to be in conformity in all material respects with the description in the application for certification or has not complied with the provisions of § 85.1505(a)(2) or its final FTP results, adjusted by the deterioration factor, if applicable, do not comply with applicable emission standards.

(c) Except as provided in § 85.1505(b), EPA approval for final admission of a vehicle or engine under this section shall be presumed to have been granted should the certificate holder not have received oral or written notice from EPA to the contrary within 15 working days of the date of EPA's receipt of the certificate holder's application under § 85.1505(a). Such EPA notice shall be made to an employee of the certificate holder. If application is made on EPA forms, the date on a certified mail receipt shall be deemed to be the official date of notification to EPA. If application is made by submitting the data electronically, the date of acceptance by EPA's computer shall be deemed to be the official date of notification to EPA. During this 15 working day period, the vehicle or engine must be stored at a location where the Administrator will have reasonable access to the vehicle or engine for his/her inspection.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999]

§ 85.1506 Inspection and testing of imported motor vehicles and engines.

(a) In order to allow the Administrator to determine whether a certificate holder's production vehicles or engines comply with applicable emission requirements or requirements of this subpart, EPA Enforcement Officers are authorized to conduct inspections and/or tests of vehicles or engines imported

by the certificate holder. EPA Enforcement Officers shall be admitted during operating hours upon demand and upon presentation of credentials to any of the following:

(1) Any facility where any vehicle or engine imported by the certificate holder under this subpart was or is being modified, tested or stored; and

(2) Any facility where any record or other document relating to modification, testing or storage of the vehicles or engines, or required to be kept by § 85.1507, is located.

EPA may require inspection or re-testing of vehicles or engines at the test facility used by the certificate holder or at an EPA-designated testing facility, with transportation and/or testing costs to be borne by the certificate holder.

(b) Upon admission to any facility referred to in paragraph (a) of this section, any EPA Enforcement Officer shall be allowed during operating hours:

(1) To inspect and monitor any part or aspect of activities relating to the certificate holder's modification, testing and/or storage of vehicles or engines imported under this subpart;

(2) To inspect and make copies of any records or documents related to modification, testing and storage of a vehicle or engine, or required by § 85.1507; and

(3) To inspect and photograph any part or aspect of any such vehicle or engine and any component used in the assembly thereof.

(c) Any EPA Enforcement Officer shall be furnished, by those in charge of a facility being inspected, with such reasonable assistance as he/she may request to help him/her discharge any function listed in this subpart. A certificate holder shall cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA (whether or not the certificate holder controls the facility).

(d) The requirements of paragraphs (a), (b) and (c) of this section apply whether or not the certificate holder owns or controls the facility in question. Noncompliance with the requirements of paragraphs (a), (b) and (c) may preclude an informed judgment

that vehicles or engines which have been or are being imported under this subpart by the certificate holder comply with applicable emission requirements or requirements of this subpart. It is the certificate holder's responsibility to make such arrangements as may be necessary to assure compliance with paragraphs (a), (b) and (c) of this section. Failure to do so, or other failure to comply with paragraphs (a), (b) and (c), may result in sanctions as provided for in the Act or § 85.1513(e).

(e) Duly designated Enforcement Officers are authorized to proceed ex parte to seek warrants authorizing the inspection or testing of the motor vehicles or motor vehicle engines described in paragraph (a) of this section whether or not the Enforcement Officer first attempted to seek permission from the certificate holder or facility owner to inspect such motor vehicles or motor vehicle engines.

(f) The results of the Administrator's test under this section shall comprise the official test data for the vehicle or engine for purposes of determining whether the vehicle or engine should be permitted final entry under § 85.1505 or § 85.1509.

(g) For purposes of this section:

(1) "Presentation of Credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(2) Where vehicle storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those specified in paragraph (g)(2) of this section are concerned, "operating hours" shall mean all times during which the facility is in operation.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpreting and translating services, and the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his/her questions.

§ 85.1507 Maintenance of certificate holder's records.

(a) The certificate holder subject to any of the provisions of this subpart shall establish, maintain and retain for six years from the date of entry of a nonconforming vehicle or engine imported by the certificate holder, adequately organized and indexed records, correspondence and other documents relating to the certification, modification, test, purchase, sale, storage, registration and importation of that vehicle or engine, including but not limited to:

(1) The declaration required by 19 CFR 12.73;

(2) Any documents or other written information required by a Federal government agency to be submitted or retained in conjunction with the certification, importation or emission testing of motor vehicles or motor vehicle engines;

(3) All bills of sale, invoices, purchase agreements, purchase orders, principal or agent agreements and correspondence between the certificate holder and the purchaser, of each vehicle or engine, and any agents of the above parties;

(4) Documents providing parts identification data associated with the emission control system installed on each vehicle or engine demonstrating that such emission control system was properly installed on such vehicle or engine;

(5) Documents demonstrating that, where appropriate, each vehicle or engine was emissions tested in accordance with the Federal Test Procedure.

(6) Documents providing evidence that the requirements of § 85.1510 have been met.

(7) Documents providing evidence of compliance with all relevant requirements of the Clean Air Act, the Energy Tax Act of 1978, and the Energy Policy and Conservation Act;

(8) Documents providing evidence of the initiation of the "15 day hold" period for each vehicle or engine imported pursuant to § 85.1505 or § 85.1509;

(9) For vehicles owned by the ICI at the time of importation, documents providing evidence of the date of sale subsequent to importation, together with the name, address and telephone

number of the purchaser, for each vehicle or engine imported pursuant to § 85.1505 or § 85.1509;

(10) For vehicles not owned by the ICI at the time of importation, documents providing evidence of the release to the owner subsequent to importation for each vehicle or engine imported pursuant to § 85.1505 or § 85.1509; and

(11) Documents providing evidence of the date of original manufacture of the vehicle or engine.

(b) The certificate holder is responsible for ensuring the maintenance of records required by this section, regardless of whether facilities used by the certificate holder to comply with requirements of this subpart are under the control of the certificate holder.

§ 85.1508 "In Use" inspections and recall requirements.

(a) Vehicles or engines which have been imported, modified and/or FTP tested by a certificate holder pursuant to § 85.1505 or § 85.1509 may be inspected and emission tested by EPA throughout the useful lives of the vehicles or engines.

(b) Certificate holders shall maintain for six years, and provide to EPA upon request, a list of owners of all vehicles or engines imported by the certificate holder under this subpart.

(c) A certificate holder will be notified whenever the Administrator has determined that a substantial number of a class or category of the certificate holder's vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202 when in actual use throughout their useful lives (as determined under section 202(d)). After such notification, the Recall Regulations at part 85, subpart S, shall govern the certificate holder's responsibilities and references to a manufacturer in the Recall Regulations shall apply to the certificate holder.

§ 85.1509 Final admission of modification and test vehicles.

(a) Except as provided in paragraphs (b), (c), (d), (e), and (f) of this section, a motor vehicle or motor vehicle engine may be imported under this section by a certificate holder possessing

a currently valid certificate of conformity only if:

(1)(i) The vehicle or engine is six OP years old or older; or

(ii) The vehicle was owned, purchased and used overseas by military or civilian employees of the U.S. Government and

(A) An ICI does not hold a currently valid certificate for that particular vehicle; and

(B) The Federal agency employing the owner of such vehicle determines that such owner is stationed in an overseas area which either prohibits the importation of U.S.-certified vehicles or which does not have adequate repair facilities for U.S.-certified vehicles; and

(C) The Federal agency employing the personnel owning such vehicles determines that such vehicles are eligible for shipment to the United States at U.S. Government expense; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holders ineligible to import such modification/test vehicles, as described in paragraph (j) of this section.

(b) In calendar year 1988, a motor vehicle or motor vehicle engine originally produced in calendar years 1983 through 1987 may be imported under this section by a certificate holder if:

(1) The certificate holder possesses a currently valid certificate of conformity for a vehicle or engine model originally produced in calendar years 1987 or 1988 and the make (i.e., the OEM) and fuel type of such certified model is the same as the make and fuel type of the vehicle or engine being imported under this section; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holder's ineligible to import such modification/test vehicles, as described in paragraph (j) of this section.

(c) In calendar year 1989, a motor vehicle or motor vehicle engine originally produced in calendar years 1984 through 1987 may be imported under this section by a certificate holder if:

(1) The certificate holder possesses a currently valid certificate of conformity for a vehicle or engine model originally produced in calendar years

1988 or 1989 and the make and fuel type of such certified model is the same as the make and fuel type of the vehicle or engine being imported under this section; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holders ineligible to import such modification/test vehicles, as described in paragraph (j) of this section,

(d) In calendar year 1990, a motor vehicle or motor vehicle engine originally produced in calendar years 1985 through 1987 may be imported under this section by a certificate holder if:

(1) The certificate holder possesses a currently valid certificate of conformity for a vehicle or engine model originally produced in calendar years 1989 or 1990 and the make and fuel type of such certified model is the same as the make and fuel type of the vehicle or engine being imported under this section; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holders ineligible to import such modification/test vehicles, as described in paragraph (j) of this section.

(e) In calendar year 1991, a motor vehicle or motor vehicle engine originally produced in calendar years 1986 and 1987 may be imported under this section by a certificate holder if:

(1) The certificate holder possesses a currently valid certificate of conformity for a vehicle or engine model originally produced in calendar years 1990 or 1991 and the make and fuel type of such certified model is the same as the make and fuel type of the vehicle or engine being imported under this section; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holders ineligible to import such modification/test vehicles, as described in paragraph (j) of this section.

(f) In calendar year 1992, a motor vehicle or motor vehicle engine originally produced in calendar year 1987 may be imported under this section by a certificate holder if:

(1) The certificate holder possesses a currently valid certificate of conformity for a vehicle or engine model

originally produced in calendar year 1991 or 1992 and the make and fuel type of such certified model is the same as the make and fuel type of the vehicle or engine being imported under this section; and

(2) The certificate holder's name has not been placed on a currently effective EPA list of certificate holders ineligible to import such modification/test vehicles, as described in paragraph (j) of this section.

(g) A motor vehicle or motor vehicle engine conditionally imported under this section may be finally admitted into the United States upon approval of the certificate holder's application to the Administrator. Such application shall be made either by completing EPA forms or, if the applicant chooses, by submitting the data electronically to EPA's computer, in accordance with EPA instructions. Such application shall contain:

(1) The identification information required in § 85.1504;

(2) An attestation by the certificate holder that the vehicle or engine has been modified and/emission tested in accordance with the FTP at a laboratory within the United States;

(3) The results of any FTP;

(4) The deterioration factor assigned by EPA;

(5) The FTP results adjusted by the deterioration factor;

(6) An attestation by the certificate holder that emission testing and development of fuel economy data as required by § 85.1510 was performed after the vehicle or engine had been modified to conform to Department of Transportation safety standards;

(7) All information required under § 85.1510;

(8) An attestation by the certificate holder that the certificate holder is responsible for the vehicle's or engine's compliance with Federal emission requirements, regardless of whether the certificate holder owns the vehicle or engine imported under this section.

(9) The name, address and telephone number of the person who the certification holder prefers to receive EPA notification under § 85.1509(i).

(10) For any vehicle imported in accordance with paragraphs (b) through (f) of this section, an attestation by the

certificate holder that the vehicle is of the same make and fuel type as the vehicle covered by a qualifying certificate as described in paragraphs (b) through (f) of this section, as applicable.

(11) Such other information as is deemed necessary by the Administrator.

(h) EPA approval for final admission of a vehicle or engine under this section shall be presumed not to have been granted if a vehicle's final FTP results, adjusted by the deterioration factor, if applicable, do not comply with applicable emission standards.

(i) Except as provided in § 85.1509(h), EPA approval for final admission of a vehicle or engine under this section shall be presumed to have been granted should the certificate holder not have received oral or written notice from EPA to the contrary within 15 working days of the date of EPA's receipt of the certificate holder's application under § 85.1509(g). Such EPA notice shall be made to an employee of the certificate holder. If application is made on EPA form, the date of a certified mail receipt shall be deemed to be the official date of notification to EPA. If application is made by submitting the data electronically, the date of acceptance by EPA's computer shall be deemed to be the official date of notification to EPA. During this 15 working day period, the vehicle or engine must be stored at a location where the Administrator will have reasonable access to inspect the vehicle or engine.

(j) *EPA list of certificate holders ineligible to import vehicles for modification/test.* EPA shall maintain a current list of certificate holders who have been determined to be ineligible to import vehicles or engines under this section. Such determinations shall be made in accordance with the criteria and procedures in § 85.1513(e) of this subpart.

(k) *Inspections.* Prior to final entry, vehicles or engines imported under this section are subject to special inspections as described in § 85.1506 with these additional provisions:

(1) If a significant number of vehicles imported by a certificate holder fail to comply, in the judgment of the Administrator, with emission requirements

upon inspection or retest, or if the certificate holder fails to comply with any provision of these regulations that pertain to vehicles imported pursuant to § 85.1509, the certificate holder may be placed on the EPA list of certificate holders ineligible to import vehicles under this section as specified in paragraph (j) of this section and § 85.1513(e);

(2) Individual vehicles or engines which fail an FTP retest or inspection must be repaired and retested, as applicable, to demonstrate compliance with emission requirements before final admission.

(3) Unless otherwise specified by EPA, the costs of all retesting under this subsection, including transportation, shall be borne by the certificate holder.

(1) *In-Use inspection and testing.* Vehicles or engines imported under this section may be tested or inspected by EPA at any time during the vehicle's or engine's useful life in accordance with § 85.1508 (a) and (b). If, in the judgment of the Administrator, a significant number of properly maintained and used vehicles or engines imported by the certificate holder fail to meet emission requirements, the name of the certificate holder may be placed on the EPA list of certificate holders ineligible to import vehicles under the modification/test provision as specified in paragraph (j) of this section and § 85.1513(e).

§ 85.1510 Maintenance instructions, warranties, emission labeling and fuel economy requirements.

The provisions of this section are applicable to all vehicles or engines imported under the provisions of §§ 85.1505 and 85.1509.

(a) *Maintenance Instructions.* (1) The certificate holder shall furnish to the purchaser or to the owner of each vehicle or engine imported under § 85.1505 or § 85.1509 of this section, written instructions for the maintenance and use of the vehicle or engine by the purchaser or owner. Each application for final admission of a vehicle or engine shall provide an attestation that such instructions have been or will be (if the ultimate producer is unknown) furnished to the purchaser or owner of such vehicle or engine at the time of

sale or redelivery. The certificate holder shall maintain a record of having furnished such instructions.

(2) For each vehicle or engine imported under § 85.1509, the maintenance and use instructions shall be maintained in a file containing the records for that vehicle or engine.

(3) Such instructions shall not contain requirements more restrictive than those set forth in 40 CFR part 86, subpart A or subpart S, as applicable (Maintenance Instructions), and shall be in sufficient detail and clarity that an automotive mechanic of average training and ability can maintain or repair the vehicle or engine.

(4) Certificate holders shall furnish with each vehicle or engine a list of the emission control parts, and emission-related parts added by the certificate holder and the emission control and emission related parts furnished by the OEM.

(b) *Warranties.* (1) Certificate holders shall provide to vehicle or engine owners emission warranties identical to those required by sections 207 (a) and (b) of the Act and 40 CFR part 85, subpart V. The warranty period for each vehicle or engine shall commence on the date the vehicle or engine is delivered by the certificate holder to the ultimate purchaser or owner.

(2) Certificate holders shall ensure that these warranties:

(i) Are insured by a prepaid mandatory service insurance policy underwritten by an independent insurance company;

(ii) Are transferable to each successive owner for the periods specified in sections 207 (a) and (b); and

(iii) Provide that in the absence of a certificate holder's facility being reasonably available (i.e., within 50 miles) for performance of warranty repairs, such warranty repairs may be performed anywhere.

(3) Certificate holders shall attest in each application for final admission that such warranties will be or have been provided. Copies of such warranties shall be maintained in a file containing the records for that vehicle or engine.

(c) *Emission labeling.* (1) The certificate holder shall affix a permanent legible label in a readily visible position

in the engine compartment. The label shall meet all the requirements of part 86 and shall contain the following statement "This vehicle or engine was originally produced in (month and year of original production). It has been imported and modified by (certificate holder's name, address and telephone number) to conform to U.S. emission regulations applicable to the (year) model year." If the vehicle or engine is owned by the certificate holder at the time of importation, the label shall also state "this vehicle or engine is warranted for five years or 50,000 miles from the date of purchase, whichever comes first." If the vehicle or engine is not owned by the certificate holder at the time of importation, the label shall state "this vehicle or engine is warranted for five years or 50,000 miles from the date of release to the owner, whichever comes first." For vehicles imported under §85.1509, the label shall clearly state in bold letters that "this vehicle has not been manufactured under a certificate of conformity but meets EPA air pollution control requirements under a modification/test program." In addition, for all vehicles, the label shall contain the vacuum hose routing diagram applicable to the vehicles.

(2) As part of the application to the Administrator for final admission of each individual vehicle or engine under §85.1509, the certificate holder shall maintain a copy of such label for each vehicle or engine in a file containing the records for that vehicle or engine. Certificate holders importing under §§85.1505 or 85.1509 shall attest to compliance with the above labeling requirements in each application for final admission.

(d) *Fuel economy labeling.* (1) The certificate holder shall affix a fuel economy label that complies with the requirements of 40 CFR part 600, subpart D.

(2) For purposes of generating the fuel economy data to be incorporated on such label, each vehicle imported under §85.1509 shall be considered to be a separate model type.

(3) As part of the application to the Administrator for final admission of each individual vehicle or engine imported under §85.1509, the certificate

holder shall maintain a copy of such label for each vehicle or engine in a file containing the records for that vehicle or engine. In each application for final admission of a vehicle or engine under §§85.1505 or §85.1509, the certificate holder shall attest to compliance with the above labeling requirements.

(e) *Gas guzzler tax.* (1) Certificate holders shall comply with any applicable provisions of the Energy Tax Act of 1978, 26 U.S.C. 4064, for every vehicle imported under §85.1505 and §85.1509.

(2) For vehicles not owned by the certificate holder, the certificate holder shall furnish to the vehicle owner applicable IRS forms (currently numbered 720 (Quarterly Federal Excise Tax) and 6197 (Fuel Economy Tax Computation Form)) which relate to the collection of the gas guzzler tax under the Energy Tax Act of 1978, 26 U.S.C. 4064.

(3) As part of the certificate holder's application to EPA for final admission of each vehicle imported under §85.1509, the certificate holder shall furnish any fuel economy data required by the Energy Tax Act of 1978, 15 U.S.C. 4064.

(f) *Corporate Average Fuel Economy (CAFE).* (1) Certificate holders shall comply with any applicable CAFE requirements of the Energy Policy and Conservation Act, 15 U.S.C. 2001 et seq., and 40 CFR part 600, for all vehicles imported under §§85.1505 and 85.1509.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999]

§85.1511 Exemptions and exclusions.

(a) Individuals, as well as certificate holders, shall be eligible for importing vehicles into the United States under the provisions of this section, unless otherwise specified.

(b) Notwithstanding any other requirements of this subpart, a motor vehicle or motor vehicle engine entitled to one of the temporary exemptions of this paragraph may be conditionally admitted into the United States if prior written approval for such conditional admission is obtained from the Administrator. Conditional admission shall be under bond. A written request for approval from the Administrator shall contain the identification required in §85.1504(a)(1) (except for §85.1504(a)(1)(v)) and information that

indicates that the importer is entitled to the exemption. Noncompliance with provisions of this section may result in the forfeiture of the total amount of the bond or expropriation of the vehicle or engine. The following temporary exemptions are permitted by this paragraph:

(1) *Exemption for repairs or alterations.* Owners of fleet vehicles or engines may import such vehicles or engines solely for purposes of repairs or alterations. Such vehicles or engines may not be registered or licensed in the United States for use on public roads and highways. They may not be sold or leased in the United States and must be exported upon completion of the repairs or alterations.

(2) *Testing exemption.* Testing vehicles or engines may be imported by any person subject to the requirements of 40 CFR 85.1705 and 85.1708. Test vehicles or engines may be operated on and registered for use on public roads or highways provided that the operation is an integral part of the test. The exemption shall be limited to a period not exceeding one year from the date of importation unless a request is made by the appropriate importer concerning the vehicle in accordance with §85.1705(f) for a subsequent one-year period.

(3) *Precertification exemption.* Prototype vehicles for use in applying to EPA for certification may be imported by independent commercial importers subject to applicable provisions of 40 CFR 85.1706 and the following requirements:

(i) No more than one prototype vehicle for each engine family for which an independent commercial importer is seeking certification shall be imported by each independent commercial importer.

(ii) Unless a certificate of conformity is issued for the prototype vehicle, the total amount of the bond shall be forfeited or the vehicle must be exported within 180 days from the date of entry.

(4) *Display exemptions.* (i) Vehicles or engines intended solely for display may be imported subject to the requirements of 40 CFR 85.1707.

(ii) Display vehicles or engines may be imported by any person. Display vehicles or engines may not be sold in the

United States and may not be registered or licensed for use on or operated on public roads or highways in the United States, unless an applicable certificate of conformity has been received.

(c) Notwithstanding any other requirements of this subpart, a motor vehicle or motor vehicle engine may be finally admitted into the United States under this paragraph if prior written approval for such final admission is obtained from the Administrator. Conditional admission of these vehicles is not permitted for the purpose of obtaining written approval from the Administrator. A request for approval shall contain the identification information required in §85.1504(a)(1) (except for §85.1504(a)(1)(v)) and information that indicates that the importer is entitled to the exemption or exclusion. The following exemptions or exclusions are permitted by this paragraph:

(1) *National security exemption.* Vehicles may be imported under the national security exemption found at 40 CFR 85.1708. Only persons who are manufacturers may import a vehicle under a national security exemption.

(2) *Hardship exemption.* The Administrator may exempt on a case-by-case basis certain motor vehicles from Federal emission requirements to accommodate unforeseen cases of extreme hardship or extraordinary circumstances. Some examples are as follows:

(i) Handicapped individuals who needs a special vehicle unavailable in a certified configuration;

(ii) Individuals who purchase a vehicle in a foreign country where resale is prohibited upon the departure of such as individual;

(iii) Individuals emigrating from a foreign country to the U.S. in circumstances of severe hardship.

(d) Foreign diplomatic and military personnel may import nonconforming vehicles without bond. At the time of admission, the importer shall submit to the Administrator the written report required in §85.1504(a)(1) (except for information required by §85.1504(a)(1)(v)). Such vehicles may not be sold in the United States.

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(e) *Racing exclusion.* Racing vehicles may be imported by any person provided the vehicles meet one or more of the exclusion criteria specified in 40 CFR 85.1703. Racing vehicles may not be registered or licensed for use on or operated on public roads and highways in the United States.

(f) *Exclusions/exemptions based on date of original manufacture.* (1) Notwithstanding any other requirements of this subpart, the following motor vehicles or motor vehicle engines are excluded from the requirements of the Act in accordance with section 216(3) of the Act and may be imported by any person:

(i) Gasoline-fueled light-duty vehicles and light-duty trucks originally manufactured prior to January 1, 1968.

(ii) Diesel-fueled light-duty vehicles originally manufactured prior to January 1, 1975.

(iii) Diesel-fueled light-duty trucks originally manufactured prior to January 1, 1976.

(iv) Motorcycles originally manufactured prior to January 1, 1978.

(v) Gasoline-fueled and diesel-fueled heavy-duty engines originally manufactured prior to January 1, 1970.

(2) Notwithstanding any other requirements of this subpart, a motor vehicle or motor vehicle engine not subject to an exclusion under §85.1511(f)(1) but greater than twenty OP years old is entitled to an exemption from the requirements of the Act, provided that it is imported into the United States by a certificate holder. At the time of admission, the certificate holder shall submit to the Administrator the written report required in §85.1504(a)(1) (except for information required by §85.1504(a)(1)(v)).

(g) Applications for exemptions and exclusions provided for in paragraphs (b) and (c) of this section shall be mailed to: Investigation/Imports Section (EN-340F), Office of Mobile Sources, U.S. Environmental Protection Agency, Washington, DC 20460.

(h) Vehicles conditionally or finally admitted under paragraphs (b)(2), (b)(4), (c)(1), (c)(2), and (f)(2) of this section must still comply with all applicable requirements, if any, of the Energy Tax Act of 1978, the Energy Policy and

Conservation Act and any other Federal or state requirements.

[52 FR 36156, Sept. 25, 1987; 52 FR 43827, Nov. 16, 1987]

§85.1512 Admission of catalyst and O₂ sensor-equipped vehicles.

(a)(1) Notwithstanding other provisions of this subpart, any person may conditionally import a vehicle which:

(i) Was covered by a certificate of conformity at the time of original manufacture or had previously been admitted into the United States under §85.1505 or §85.1509 (after June 30, 1988).

(ii) Was certified, or previously admitted under §85.1505 or §85.1509 (after June 30, 1988), with a catalyst emission control system and/or O₂ sensor;

(iii) Is labeled in accordance with 40 CFR part 86, subpart A or subpart S, or, where applicable, §85.1510(c); and

(iv) Has been driven outside the United States, Canada and Mexico or such other countries as EPA may designate.

(2) Such vehicle must be entered under bond pursuant to 19 CFR 12.73 unless it is included in a catalyst and O₂ sensor control program approved by the Administrator upon such terms as may be deemed appropriate. Catalyst and O₂ sensor programs conducted by manufacturers may be approved each model year.

(b) For the purpose of this section, "catalyst and O₂ sensor control program" means a program instituted and maintained by a manufacturer, or any U.S. Government Agency for the purpose of preservation, replacement, or initial installation of catalytic converters and cleaning and/or replacement of O₂ sensors and, if applicable, restricted fuel filler inlets.

(c) For the purpose of this section, "driven outside the United States, Canada and Mexico" does not include mileage accumulated on vehicles solely under the control of manufacturers of new motor vehicles or engines for the purpose of vehicle testing and adjustment, and preparation for shipment to the United States.

(d) Vehicles conditionally imported pursuant to this section and under bond must be modified in accordance with the certificate of conformity applicable at the time of manufacture. In

the case of vehicles previously imported under § 85.1509 or § 85.1504 (prior to July 1, 1988), the replacement catalyst and O₂ sensor, if applicable, must be equivalent (in terms of emission reduction) to the original catalyst and O₂ sensor. Such vehicles may be granted final admission upon application to the Administrator, on forms specified by the Administrator. Such application shall contain the information required in § 85.1504(a)(1) (i) through (v) and shall contain both an attestation by a qualified mechanic that the catalyst has been replaced and the O₂ sensor has been replaced, if necessary, and that both parts are functioning properly, and a copy of the invoice for parts and labor.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999]

§ 85.1513 Prohibited acts; penalties.

(a) The importation of a motor vehicle or motor vehicle engine which is not covered by a certificate of conformity other than in accordance with this subpart and the entry regulations of the U.S. Customs Service at 19 CFR 12.73 is prohibited. Failure to comply with this section is a violation of section 203(a)(1) of the Act.

(b) Unless otherwise permitted by this subpart, during a period of conditional admission, the importer of a vehicle shall not:

(1) Operate the vehicle on streets or highways,

(2) Sell or offer the vehicle or engine for sale, or

(3) Store the vehicle on the premises of a dealer.

(c) Any vehicle or engine conditionally admitted pursuant to §§ 85.1504, 85.1511 or 85.1512, and not granted final admission within 120 days of such conditional admission, or within such additional time as the U.S. Customs Service may allow, shall be deemed to be unlawfully imported into the United States in violation of section 203(a)(1) of the Act, unless such vehicle or engine shall have been delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws and regulations. Any vehicles or engines not so delivered shall be subject to seizure by the U.S. Customs Service.

(d) Any importer who violates section 203(a)(1) of the Act is subject to a civil penalty under section 205 of the Act of not more than \$10,000 for each vehicle or engine subject to the violation. In addition to the penalty provided in the Act, where applicable, under the exemption provisions of § 85.1511(b), or under § 85.1512, any person or entity who fails to deliver such vehicle or engine to the U.S. Customs Service is liable for liquidated damages in the amount of the bond required by applicable Customs laws and regulations.

(e) (1) A certificate holder whose vehicles or engines imported under § 85.1505 or § 85.1509 fail to conform to Federal emission requirements after modification and/or testing under the Federal Test Procedure (FTP) or who fails to comply with applicable provisions of this subpart, may, in addition to any other applicable sanctions and penalties, be subject to any, or all, of the following sanctions:

(i) The certificate holder's currently held certificates of conformity may be revoked or suspended;

(ii) The certificate holder may be deemed ineligible to apply for new certificates for up to 3 years; and

(iii) The certificate holder may be deemed ineligible to import vehicles or engines under § 85.1509 in the future and be placed on a list of certificate holders ineligible to import vehicles or engines under the provisions of § 85.1509.

(2) Grounds for the actions described in paragraph (e)(1) of this section shall include, but not be limited to, the following:

(i) Action or inaction by the certificate holder or the laboratory performing the FTP on behalf of the certificate holder which results in fraudulent, deceitful or grossly inaccurate representation of any fact or condition which affects a vehicle's or engine's eligibility for admission to the U.S. under this subpart;

(ii) Failure of a significant number of vehicles or engines imported to comply with Federal emission requirements upon EPA inspection or retest; or

(iii) Failure by a certificate holder to comply with requirements of this subpart.

(3) The following procedures govern any decision to suspend, revoke, or refuse to issue certificates under this subpart:

(i) When grounds appear to exist for the actions described in paragraph (e)(1) of this section, the Administrator shall notify the certificate holder in writing of any intended suspension or revocation of a certificate, proposed ineligibility to apply for new certificates, or intended suspension of eligibility to conduct modification/testing under § 85.1509, and the grounds for such action.

(ii) Except as provided by paragraph (e)(3)(iv) of this section, the certificate holder must take the following actions before the Administrator will consider withdrawing notice of intent to suspend or revoke the certificate holder's certificate or the certificate holder's eligibility to perform modification/testing under § 85.1509:

(A) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicle or engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the certificate holder to prevent the future occurrence of the problem, and states the date on which the remedies will be implemented; or

(B) Demonstrate that the vehicles or engines do in fact comply with applicable regulations in this chapter by re-testing such vehicles or engines in accordance with the FTP.

(iii) A certificate holder may request within 15 calendar days of the Administrator's notice of intent to suspend or revoke a certificate holder's eligibility to perform modification/testing or certificate that the Administrator grant such certificate holder a hearing:

(A) As to whether the tests have been properly conducted,

(B) As to any substantial factual issue raised by the Administrator's proposed action.

(iv) If, after the Administrator notifies a certificate holder of his/her intent to suspend or revoke a certificate holder's certificate of conformity or its eligibility to perform modification/

testing under § 85.1509 and prior to any final suspension or revocation, the certificate holder demonstrates to the Administrator's satisfaction that the decision to initiate suspension or revocation of the certificate or eligibility to perform modification/testing under § 85.1509 was based on erroneous information, the Administrator will withdraw the notice of intent.

(4) Hearings on suspensions and revocations of certificates of conformity or of eligibility to perform modification/testing under § 85.1509 shall be held in accordance with the following:

(i) Applicability. The procedures prescribed by this section shall apply whenever a certificate holder requests a hearing pursuant to subsection (e)(3)(iii).

(ii) Hearing under paragraph (e)(3)(iii) of this section shall be held in accordance with the procedures outlined in § 88.613, where applicable, provided that where § 86.612 is referred to in § 86.613: Section 86.612(a) is replaced by § 85.1513(d)(2); and § 86.612(i) is replaced by § 85.1513(d)(3)(iii).

(5) When a hearing is requested under this paragraph and it clearly appears from the data or other information contained in the request for a hearing, or submitted at the hearing, that there is no genuine and substantial question of fact with respect to the issue of whether the certificate holder failed to comply with this subpart, the Administrator will enter an order denying the request for a hearing, or terminating the hearing, and suspending or revoking the certificate of conformity or the certificate holder's eligibility to perform modification/testing under § 85.1509.

(6) In lieu of requesting a hearing under paragraph (e)(3)(iii) of this section, a certificate holder may respond in writing to EPA's charges in the notice of intent to suspend or revoke. Such a written response must be received by EPA within 30 days of the date of EPA's notice of intent. No final decision to suspend or revoke will be made before that time.

§ 85.1514 Treatment of confidential information.

(a) Any importer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR part 2, subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, an importer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter.

§ 85.1515 Emission standards and test procedures applicable to imported nonconforming motor vehicles and motor vehicle engines.

(a) Notwithstanding any other requirements of this subpart, any motor vehicle or motor vehicle engine conditionally imported pursuant to § 85.1505 or § 85.1509 and required to be emission tested shall be tested using the FCT at 40 CFR part 86 applicable to current model year motor vehicles and motor vehicle engines at the time of testing.

(b) The emission standards applicable to nonconforming light-duty vehicles and light-duty trucks imported pursuant to this subpart are outlined in ta-

bles 1 and 2 of this section, respectively. The useful life as specified in tables 1 and 2 of this section is applicable to imported light-duty vehicles and light-duty trucks, respectively.

(c)(1) Nonconforming motor vehicles or motor vehicle engines of 1994 O.P. model year and later conditionally imported pursuant to § 85.1505 or § 85.1509 shall meet all of the emission standards specified in 40 CFR part 86 for the model year in which the motor vehicle or motor vehicle engine is modified. At the option of the ICI, the nonconforming motor vehicle may comply with the emissions standards in 40 CFR 86.1708-99 or 86.1709-99, as applicable to a light-duty vehicle or light light-duty truck, in lieu of the otherwise applicable emissions standards specified in 40 CFR part 86 for the model year in which the nonconforming motor vehicle is modified. The provisions of 40 CFR 86.1710-99 do not apply to imported nonconforming motor vehicles. The useful life specified in 40 CFR part 86 for the model year in which the motor vehicle or motor vehicle engine is modified is applicable where useful life is not designated in this subpart.

(2)(i) The provisions of paragraph (c)(1) of this section notwithstanding, nonconforming light-duty vehicles and light light-duty trucks (LDV/LLDTs) modified in model years 2004, 2005 or 2006 must meet the FTP exhaust emission standards of bin 9 in Tables S04-1 and S04-2 in 40 CFR 86.1811-04 and the evaporative emission standards for light-duty vehicles and light light-duty trucks specified in 40 CFR 86.1811-04(e)(5).

(ii) Nonconforming LDT3s and LDT4s (HLDTs) and medium-duty passenger vehicles (MDPVs) modified in model years 2004 through 2006 must meet the FTP exhaust emission standards of bin 10 in Tables S04-1 and S04-2 in 40 CFR 86.1811-04 and the applicable evaporative standards specified in 40 CFR 86.1811-04(e)(5). For 2004 model year HLDTs and MDPVs where modifications commence on the first vehicle of a test group before December 21, 2003, this requirement does not apply to the 2004 model year. ICIs opting to bring all of their 2004 model year HLDTs and MDPVs into compliance with the exhaust emission standards of bin 10 in

Tables S04-1 and S04-2 in 40 CFR 86.1811-04, may use the optional higher NMOG values for their 2004-2006 model year LDT2s and 2004-2008 LDT4s.

(iii) Nonconforming LDT3s and LDT4s (HLDTs) and medium-duty passenger vehicles (MDPVs) modified in model years 2007 and 2008 must meet the FTP exhaust emission standards of bin 8 in Tables S04-1 and S04-2 in 40 CFR 86.1811-04 and the applicable evaporative standards specified in 40 CFR 86.1811-04(e)(5).

(iv) Nonconforming LDV/LLDTs modified in model years 2007 and later and nonconforming HLDTs and MDPVs modified in model years 2009 and later must meet the FTP exhaust emission standards of bin 5 in Tables S04-1 and S04-2 of 40 CFR 86.1811-04, and the evaporative standards specified in 40 CFR 86.1811(e)(1) through (e)(4).

(v) ICIs are exempt from the Tier 2 and the interim non-Tier 2 phase-in intermediate percentage requirements for exhaust, evaporative and refueling emissions described in 40 CFR 86.1811-04.

(3)(i) As an option to the requirements of paragraph (c)(2) of this section, independent commercial importers may elect to meet lower bins in Tables S04-1 and S04-2 of 40 CFR 86.1811-04 than specified in paragraph (c)(2) of this section and bank or sell credits as permitted in 40 CFR 86.1860-04 and 40 CFR 86.1861-04. An ICI may not meet higher bins in Tables S04-1 and S04-2 of 40 CFR 86.1811-04 than specified in paragraph (c)(2) of this section unless it demonstrates to the Administrator at the time of certification that it has obtained appropriate and sufficient NO_x credits from another manufacturer, or has generated them in a previous model year or in the current model year and not transferred them to another manufacturer or used them to address other vehicles as permitted in 40 CFR 86.1860-04 and 40 CFR 86.1861-04.

(ii) Where an ICI desires to obtain a certificate of conformity using a bin higher than specified in paragraph (c)(2) of this section, but does not have sufficient credits to cover vehicles produced under such certificate, the Administrator may issue such certificate if the ICI has also obtained a certificate of conformity for vehicles certified using a bin lower than that required under paragraph (c)(2) of this section. The ICI may then produce vehicles to the higher bin only to the extent that it has generated sufficient credits from vehicles certified to the lower bin during the same model year.

(4) [Reserved]

(5) Except for the situation where an ICI desires to bank, sell or use NO_x credits as described in paragraph (c)(3) of this section, the requirements of 40 CFR 86.1811-04 related to fleet average NO_x standards and requirements to comply with such standards do not apply to vehicles modified under this subpart.

(6) ICIs using bins higher than those specified in paragraph (c)(2) of this section must monitor their production so that they do not produce more vehicles certified to the standards of such bins than their available credits can cover. ICIs must not have a credit deficit at the end of a model year and are not permitted to use the deficit carryforward provisions provided in 40 CFR 86.1860-04(e).

(7) The Administrator may condition the certificates of conformity issued to ICIs as necessary to ensure that vehicles subject to paragraph (c) of this section comply with the appropriate average NO_x standard for each model year.

(d) Except as provided in paragraph (c) of this section, ICI's must not participate in emission-related programs for emissions averaging, banking and trading, or nonconformance penalties.

TABLE 1 TO § 85.1515—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY MOTOR VEHICLES^{1 2 3}

OP Year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1968-76	1.5 gpm	15 gpm	3.1 gpm		6.0 g/test	5/50,000	
1977-79	1.5 gpm	15 gpm	2.0 gpm		6.0 g/test	5/50,000	
1980	0.41 gpm	7.0 gpm	2.0 gpm		6.0 g/test	5/50,000	
1981	0.41 gpm	3.4 gpm	1.0 gpm		2.0 g/test	5/50,000	
1982-86	0.41 gpm	3.4 gpm	1.0 gpm	0.60 gpm	2.0 g/test	5/50,000	

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TABLE 1 TO § 85.1515—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY MOTOR VEHICLES^{1 2 3}—Continued

OP Year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1987–93	0.41 gpm	3.4 gpm	1.0 gpm	0.20 gpm	2.0 g/test	5/50,000	
1994 and later	(⁴)	(⁴)	(⁴)	(⁴)	(⁴)	(⁴)	

¹ Diesel particulate standards apply only to diesel fueled light-duty vehicles. Evaporative hydrocarbon standards apply only to non-diesel fueled light-duty vehicles. For alternative fueled light-duty vehicles, the evaporative hydrocarbon standard is interpreted as organic material hydrocarbon equivalent grams carbon per test, as applicable.

² No crankcase emissions shall be discharged into the ambient atmosphere from any non-diesel fueled light-duty vehicle.

³ All light-duty vehicles shall meet the applicable emission standards at both low and high-altitudes according to the procedures specified in 40 CFR part 86 for current model year motor vehicles at the time of testing.

⁴ Specified in 40 CFR part 86 for the OP year of the vehicle, per 85.1515(c).

TABLE 2—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY TRUCKS^{1 2 3 4 5}

OP year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1968–78	2.0 gpm	20 gpm	3.1 gpm		6.0 g/test	5/50,000	
1979–80	1.7 gpm	18 gpm	2.3 gpm		6.0 g/test	5/50,000	
1981	1.7 gpm	18 gpm	2.3 gpm		2.0 g/test	5/50,000	
1982–83	1.7 gpm	18 gpm	2.3 gpm		2.0 g/test	5/50,000	
	(2.0)	(26)	(2.3)	0.60 gpm	(2.6)		
	(0.60)			(0.60)			
1984	0.80 gpm	10 gpm	2.3 gpm	0.60 gpm	2.0 g/test	5/50,000	
	(1.0)	(14)	(2.3)	(0.60)	(2.6)		
1985–86	0.80 gpm	10 gpm	2.3 gpm	0.60 gpm	2.0 g/test	11/120,000	
	(1.0)	(14)	(2.3)	(0.60)	(2.6)		
1987	0.80 gpm	10 gpm	2.3 gpm	0.26 gpm	2.0 g/test	11/120,000	
	(1.0)	(14)	(2.3)	(0.26)	(2.6)		
1988–89	0.80 gpm	10 gpm	1.2 gpm ⁶	0.26 gpm ⁷	2.0 g/test	11/120,000	
	(1.0)	(14)	(1.2)	(2.0)	(2.6)		
	0.80 gpm	10 gpm	1.7 gpm ⁶	0.45 gpm ⁷	2.0 g/test	11/120,000	
	(1.0)	(14)	(1.7)	(0.26)	(2.6)		
	0.80 gpm	10 gpm	2.3 gpm ⁶	0.45 gpm ⁷	2.0 g/test	11/120,000	
	(1.0)	(14)	(2.3)	(0.26)	(2.6)		
1990–93	0.80 gpm	10 gpm	1.2 gpm ⁸	0.26 gpm ⁷	2.0 g/test	11/120,000	
	(1.0)	(14)	(1.2)	(0.26)	(2.6)		
	0.80 gpm	10 gpm	1.7 gpm ⁸	0.45 gpm ⁷	2.0 g/test	11/120,000	
	(1.0)	(14)	(1.7)	(0.26)	(2.6)		
1994 and later	(⁹)	(⁹)	(⁹)	(⁹)	(⁹)	(⁹)	

¹ Diesel particulate standards apply only to diesel fueled light-duty trucks. Evaporative hydrocarbon standards apply only to non-diesel fueled light-duty trucks. For alternative fueled light-duty trucks, the evaporative hydrocarbon standard is interpreted as organic material hydrocarbon equivalent grams carbon per test, as applicable.

² No crankcase emissions shall be discharged into the ambient atmosphere from any non-diesel fueled light-duty truck.

³ A carbon monoxide standard of 0.50% of exhaust flow at curb idle is applicable to all 1984 and later model year light-duty trucks sold to, or owned by, an importer for principal use at other than a designated high-altitude location. This requirement is effective for light-duty trucks sold to, or owned by an importer for principal use at a designated high-altitude location beginning with the 1988 model year.

⁴ All 1982 OP year and later light-duty trucks sold to, or owned by, an importer for principal use at a designated high-altitude location shall meet high-altitude emission standards according to the requirements specified in 40 CFR part 86 for current model year light-duty trucks at the time of testing.

⁵ Standards in parentheses apply to motor vehicles sold to, or owned by, an importer for principal use at a designated high-altitude location. These standards must be met at high-altitude according to the procedures specified in 40 CFR part 86 for current model year motor vehicles at the time of testing.

⁶ The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight and 6,000 pounds or less gross vehicle weight; the 1.7 gpm standard applies to light-duty trucks greater than 3,750 pound loaded vehicle weight and 6,000 pounds or less gross vehicle weight; the 2.3 gpm standard applies to light-duty trucks 6,001 pounds gross vehicle weight and greater.

⁷ The diesel particulate standard of 0.26 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 0.45 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

⁸ The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 1.7 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

⁹ Specified in 40 CFR part 86 for the OP year of the vehicle, per 85.1515(c).

[61 FR 5842, Feb. 14, 1996, as amended at 62 FR 31232, June 6, 1997; 63 FR 964, Jan. 7, 1998; 65 FR 6847, Feb. 10, 2000]

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§ 85.1712 Treatment of confidential information.

(a) Any person or manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR part 2, subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a person or manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of it submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34797, Aug. 27, 1985]

Subpart S—Recall Regulations

AUTHORITY: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c) (1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1847f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a)).

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SOURCE: 39 FR 44375, Dec. 23, 1974, unless otherwise noted.

§ 85.1801 Definitions.

For the purposes of this subpart, except as otherwise provided, words shall be defined as provided for by sections 214 and 302 of the Clean Air Act, 42 U.S.C. 1857, as amended.

(a) *Act* shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(b) *Days* shall mean calendar days.

§ 85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.

(a) A manufacturer will be notified whenever the Administrator has determined that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, do not conform to the regulations prescribed under section 202 of the Act in effect during (and applicable to) the model year of such vehicle. The notification will include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, will give the factual basis for the determination of nonconformity (except information previously provided the manufacturer by the Agency), and will designate a date, no sooner than 45 days from the date of receipt of such notification, by which the manufacturer shall have submitted a plan to remedy the nonconformity.

(b) Unless a hearing is requested pursuant to § 85.1807, the remedial plan shall be submitted to the Administrator within the time limit specified in the Administrator's notification, provided that the Administrator may grant the manufacturer an extension upon good cause shown.

(c) If a manufacturer requests a public hearing pursuant to § 85.1807, unless as a result of such hearing the Administrator withdraws his determination of nonconformity, the manufacturer shall submit the remedial plan within 30 days of the end of such hearing.

[39 FR 44375, Dec. 23, 1974, as amended at 42 FR 36456, July 15, 1977]

§ 85.1803 Remedial Plan.

(a) When any manufacturer is notified by the Administrator that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations (including emission standards) or family particulate emission limits, as defined in part 86 promulgated under section 202 of the Act and in effect during (and applicable to) the model year of such class or classes of vehicles or engines, the manufacturer shall submit a plan to the Administrator to remedy such nonconformity. The plan shall contain the following:

(1) A description of each class or category of vehicle or engine to be recalled including the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision as to the particular remedial changes to be used in correcting the nonconformity.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners.

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's reasons for imposing any such condition, and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with any such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers. No maintenance or use condition may be imposed unless it is, in the judgement of the Administrator, demonstrably related to preventing the nonconformity.

(5) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied: *Provided*, That repair shall be completed within a reasonable time designated by the Administrator from the date the owner first tenders his vehicle or engine after the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(6) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity, and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(7) Three copies of the letters of notification to be sent to vehicle or engine owners.

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled and a brief summary of

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the data, technical studies, or engineering evaluations which support these conclusions.

(11) Any other information, reports or data which the Administrator may reasonably determine is necessary to evaluate the remedial plan.

(b)(1) Notification to vehicle or engine owners shall be made by first class mail or by such means as approved by the Administrator: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(2) The manufacturer shall use all reasonable means necessary to locate vehicle or engine owners: *Provided*, That for good cause, the Administrator may require the manufacturer to use motor vehicle registration lists as available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure an effective notification.

(3) The Administrator reserves the right to require the manufacturer to send by first class mail or other reasonable means subsequent notification to vehicle or engine owners: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(c)(1) The manufacturer shall require those who perform the repair under the remedial plan to affix a label to each vehicle or engine repaired or, when required, inspected under the remedial plan.

(2) The label shall be placed in such location as approved by the Administrator consistent with State law and shall be fabricated of a material suitable for the location in which it is installed and which is not readily removable intact.

(3) The label shall contain:

(i) The recall campaign number; and
(ii) A code designating the campaign facility at which the repair, or inspection for repair was performed.

(4) The Administrator reserves the right to waive any or all of the requirements of this paragraph if he determines that they constitute an unwarranted burden to the manufacturer.

(d) The Administrator may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed change, repair,

or modification reasonably designed and necessary to demonstrate the effectiveness of the change, repair, or modification.

NOTE: An interpretive ruling regarding § 85.1803 is published in appendix A to this subpart.

[39 FR 44375, Dec. 23, 1974, as amended at 40 FR 28067, July 3, 1975; 42 FR 36456, July 15, 1977; 45 FR 36398, May 30, 1980; 48 FR 33462, July 21, 1983]

§ 85.1804 Approval of Plan: Implementation.

(a) If the Administrator finds that the remedial plan is designed and effective to correct the nonconformity, he will so notify the manufacturer in writing. If the remedial plan is not approved, the Administrator will provide the manufacturer notice of the disapproval and the reasons for the disapproval in writing.

(b) Upon receipt of notice from the Administrator that the remedial plan has been approved, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners shall be in accordance with requirements of this subpart and shall proceed as follows:

(1) When no public hearing as described in § 85.1807 is requested by the manufacturer, notification of vehicles or engine owners shall commence within 15 working days of the receipt by the manufacturer of the Administrator's approval unless otherwise specified by the Administrator.

(2) When a public hearing as described in § 85.1807 is held, unless as a result of such hearing the Administrator withdraws the determination of nonconformity, the Administrator shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity.

§ 85.1805 Notification to vehicle or engine owners.

(a) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "The Administrator of the U.S. Environmental Protection Agency has determined that your vehicle or engine may be emitting pollutants in excess of the Federal

emission standards or family particulate emission limits, as defined in Part 86. These standards or family particulate emission limits, as defined in Part 86 were established to protect the public health or welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines which have been, if required by the remedial plan, properly maintained and used, will be remedied at the expense of the manufacturer.

(3) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the remedy and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail an emission inspection test when such tests are required under State or local law.

(6) A description of the adverse affects, if any, that an uncorrected nonconformity would have on the performance or driveability of the vehicle or engine.

(7) A description of the adverse affects, if any, that such nonconformity would have on the functions of other engine components.

(8) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(9) A card to be used by a vehicle or engine owner in the event the vehicle

or engine to be recalled has been sold. Such card should be addressed to the manufacturer and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by Federal law, and your right to participate in future recalls, it is recommended that you have (vehicle or engine) serviced as soon as possible. Failure to do so could legally be determined to be a lack of proper maintenance of your (vehicle or engine)."

(b) No notice sent pursuant to paragraph (a) of this section nor any other contemporaneous communication sent to vehicle or engine owners or dealers shall contain any statement or implication that the nonconformity does not exist or that the nonconformity will not degrade air quality.

(c) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Administrator has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

[39 FR 44375, Dec. 23, 1974, as amended at 48 FR 33462, July 21, 1983]

§ 85.1806 Records and reports.

(a) The manufacturer shall provide to the Administrator a copy of all communications which relate to the remedial plan directed to dealers and other persons who are to perform the repair under the remedial plan. Such copies shall be mailed to the Administrator contemporaneously with their transmission to dealers and other persons who are to perform the repair under the remedial plan.

(b) The manufacturer shall provide for the establishment and maintenance of records to enable the Administrator to conduct a continuing analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

(1) Recall campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity.

(5) Number of vehicles or engines inspected pursuant to the remedial plan.

(6) Number of inspected vehicles found to be affected by the nonconformity.

(7) Number of vehicles actually receiving repair under the remedial plan.

(8) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for remedial action due to a failure to properly maintain or use such vehicles or engines.

(c) If the manufacturer determines that the original answers for paragraphs (b) (3) and (4) of this section are incorrect, revised figures and an explanatory note shall be submitted. Answers to paragraphs (b) (5), (6), (7), and (8), and (9) of this section shall be cumulative totals.

(d) Unless otherwise directed by the Administrator, the information specified in paragraph (b) of this section shall be included in quarterly reports, with respect to each recall campaign, for six consecutive quarters beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter.

(e) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, lists of the names and addresses of vehicles or engine owners.

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the remedial plan; and

(3) When eligibility for repair is conditioned on proper maintenance or use, that were determined not to qualify for such remedial action.

(f) The records described in paragraph (e) of this section shall be made available to the Administrator upon request.

(g) The records and reports required by this section shall be retained for not less than 5 years.

[39 FR 44375, Dec. 23, 1974; 40 FR 3447, Jan. 22, 1975]

§ 85.1807 Public hearings.

(a) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Intervener" shall mean a person who files a petition to be made an intervenor pursuant to paragraph (g) of this section and whose petition is approved.

(3) "Manufacturer" refers to a manufacturer contesting a recall order directed at that manufacturer.

(4) "Party" shall include the Environmental Protection Agency, the manufacturer, and any interveners.

(5) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930 as amended).

(6) "Environmental Appeals Board" shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(b) *Request for public hearing.* (1)(i) If the manufacturer disagrees with the

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Administrator's finding of nonconformity he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 45 days after the receipt of the Administrator's notification of nonconformity unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Manufacturers Operations Division and two copies filed with the Hearing Clerk. Failure of the manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. In such a case, the manufacturer shall carry out the recall order as required by § 85.1803-6.

(ii) Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the nonconformity.

(2) The request for a public hearing shall contain:

(i) A statement as to which classes or categories of vehicles or engines are to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each class or category of engine or vehicle for which the manufacturer has requested the hearing; and

(iii) A statement as to reasons the manufacturer believes he will prevail on the merits on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(c) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (f) of this section.

(2) Except for requests to commence a hearing, at the same time a party

files with the Hearing Clerk any additional issues for consideration at the hearing or any written testimony, documents, papers, exhibits, or materials, proposed to be introduced into evidence or papers filed in connection with any appeal, it shall serve upon all other parties copies thereof. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Manufacturers Operations Division shall be mailed to: Director, Manufacturers Operations Division, U.S. Environmental Protection Agency (EG-340), 1200 Pennsylvania Ave., NW., WSM, Washington, DC 20460. Service by mail is complete upon mailing.

(d) *Time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise provided, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(e) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(f) *Notice of public hearings.* (1) Notice of a public hearing under this section shall be given by publication in the FEDERAL REGISTER. Notice will be given at least 30 days prior to the commencement of such hearings.

(2) The notice of a public hearing shall include the following information:

(i) The purpose of the hearing and the legal authority under which the hearing is to be held;

(ii) A brief summary of the Administrator's determination of nonconformity;

(iii) A brief summary of the manufacturer's basis for contesting the Administrator's determination of nonconformity;

(iv) Information regarding the time and location of the hearing and the address to which all documents required or permitted to be filed should be sent;

(v) The address of the Hearing Clerk to whom all inquiries should be directed and with whom documents are required to be filed;

(vi) A statement that all petitions to be made an intervenor must be filed with the Hearing Clerk within 25 days from the date of the notice of public hearing and must conform to the requirements of paragraph (g) of this section.

(3) The notice of public hearing shall be issued by the Assistant Administrator for Enforcement and General Counsel.

(g) *Intervenors.* (1) Any person desiring to intervene in a hearing to be held under section 207(c)(1) of the Act shall file a petition setting forth the facts and reasons why he thinks he should be permitted to intervene.

(2) In passing upon a petition to intervene, the following factors, among other things, shall be considered by the Presiding Officer:

(i) The nature of the petitioner's interest including the nature and the extent of the property, financial, environmental protection, or other interest of the petitioner;

(ii) The effect of the order which may be entered in the proceeding on petitioner's interest;

(iii) The extent to which the petitioner's interest will be represented by existing parties or may be protected by other means;

(iv) The extent to which petitioner's participation may reasonably be expected to assist materially in the development of a complete record;

(v) The effect of the intervention on the Agency's statutory mandate.

(3) A petition to intervene must be filed within 25 days following the notice of public hearing under section 207(c)(1) of the Act and shall be served on all parties. Any opposition to such petition must be filed within five days of such service.

(4) All petitions to be made an intervenor shall be reviewed by the Presiding Officer using the criteria set forth in paragraph (g)(2) of this section and considering any oppositions to such petition. Where the petition demonstrates that the petitioner's interest is limited to particular issues, the Presiding Officer may, in granting such petition, limit petitioner's participation to those particular issues only.

(5) If the Presiding Officer grants the petition with respect to any or all issues, he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties. If the Presiding Officer denies the petition he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties and shall briefly state the reasons why the petition was denied.

(6) All petitions to be made an intervenor shall include an agreement by the petitioner, and any person represented by the petitioner, to be subject to examination and cross-examination and to make any supporting and relevant records available at its own expense upon the request of the Presiding Officer, on his own motion or the motion of any party or other intervenor. If the intervenor fails to comply with any such request, the Presiding Officer may in his discretion, terminate his status as an intervenor.

(h) *Intervention by motion.* Following the expiration of the time prescribed in paragraph (g) of this section for the submission of petitions to intervene in a hearing, any person may file a motion with the Presiding Officer to intervene in a hearing. Such a motion must contain the information and commitments required by paragraphs (g)(2) and (6) of this section, and, in addition, must show that there is good cause for granting the motion and must contain a statement that the intervenor shall be bound by agreements,

arrangements, and other determinations which may have been made in the proceeding.

(i) *Amicus Curiae*. Persons not parties to the proceedings wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(j) *Presiding Officer*. The Presiding Officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. 554, 556 and 557, to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts. Testimony concerning the conduct and results of tests and inspections may be submitted in written form.

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues of the record of the hearing.

(12) To issue, upon good cause shown, protective orders as described in paragraph (n) of this section.

(k) *Conferences*. (1) At the discretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties and interveners of the time and location of any such conference. At the discretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the Presiding Officer:

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the Presiding Officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (p) of this section;

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the Presiding Officer and made part of the record.

(l) *Primary discovery (exchange of witness lists and documents)*. (1) At a pre-hearing conference or within some reasonable time set by the Presiding Officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and

summaries of expected testimony amended upon motion by a party.

(2) The Presiding Officer, may, upon motion by a party or other person, and for good cause shown, by order (i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and (ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(m) *Other discovery.* (1) Except as so provided by paragraph (1) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should

be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(n) *Protective orders: in camera proceedings.* (1) Upon motion by a party or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof, (other than emission data) would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided*, That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel to parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2)(i) A party or person seeking a protective order may be permitted to make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the Presiding Officer enters a protective order following a showing in camera, the record of such showing shall be

sealed and preserved and made available to the Agency or court in the event of appeal.

(ii) Attendance at any *in camera* proceeding may be limited to the Presiding Officer, the Agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issued pursuant to paragraph (n)(1) of this section, desiring for the presentation of his case to make use of any *in camera* documents or testimony shall make application to the Presiding Officer by motion setting forth the justification therefor. The Presiding Officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of *in camera* documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential", which shall become part of the *in camera* record.

(o) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file

an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) The Presiding Officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

(p) *Evidence.* (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (n) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The Presiding Officer shall allow the parties to examine and to cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(q) *Interlocutory appeal.* (1) An interlocutory appeal may be taken to the Environmental Appeals Board either (i) with the consent of the Presiding Officer and where he certifies on the record or in writing that the allowance of an

interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the Presiding Officer, by permission of the Environmental Appeals Board.

(2) Applications for interlocutory appeal of any ruling or order of the Presiding Officer may be filed with the Presiding Officer within 5 days of the issuance of the ruling or order being appealed. Answers thereto by other parties may be filed within 5 days of the service of such applications.

(3) The Presiding Officer shall rule on such applications within 5 days of the filing of such application or answers thereto.

(4) Applications to file such appeals absent consent of the Presiding Officer shall be filed with the Environmental Appeals Board within 5 days of the denial of any appeal by the Presiding Officer.

(5) The Environmental Appeals Board will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Environmental Appeals Board directs otherwise.

(6) Except under extraordinary circumstances as determined by the Presiding Officer, the taking of an interlocutory appeal will not stay the hearing.

(r) *Record.* (1) Hearings shall be stenographically reported and transcribed, and the original transcript shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(s) *Proposed findings, conclusions.* (1) Within 20 days of the close of the reception of evidence, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer

proposed findings of fact, conclusions of law, and a proposed rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on.

(2) The record shall show the Presiding Officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

(t) *Decision of the Presiding Officer.* (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings as provided for in paragraph (s) of this section has expired.

(2) The Presiding Officer's decision shall become the opinion of the Environmental Appeals Board (i) when no notice of intention to appeal as described in paragraph (u) of this section is filed, 30 days after the issuance thereof, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii) when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision.

(3) The Presiding Officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact or law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the issuance of his decision.

(u) *Appeal from the Decision of the Presiding Officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any party may file a brief with respect to such appeal. The brief shall be filed within 20 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged;

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed form of rule or order for the Environmental Appeals Board's consideration if different from the rule or order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument will be allowed in the discretion of the Environmental Appeals Board.

(v) *Review of the Presiding Officer's Decision in Absence of Appeal.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (u)

of this section, may, on its own motion, within the time limits specified in paragraph (t)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issue which shall be considered and shall make provision for filing of briefs.

(w) *Decision on appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for its action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(x) *Reconsideration.* Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or the final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board. Any party desiring to oppose such a petition shall file and answer thereto within ten (10) days after the filing of the petition.

The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

(y) *Accelerated decision: Dismissal.* (1) The Presiding Officer, upon motion of any party or *sua sponte*, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, under any of the following conditions:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) There is no genuine issue of material fact and a party is entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the Presiding Officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the Presiding Officer as provided in paragraph (p) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no appeal has been taken from the Presiding Officer's decision, and, after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such de-

cision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (u) of this section, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Environmental Appeals Board.

(aa) *Judicial Review.* (1) The Administrator hereby designates the Deputy General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served.

Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made shall forward the record to the court.

[39 FR 44375, Dec. 23, 1974; 40 FR 3447, Jan. 22, 1975, as amended at 44 FR 61962, Oct. 29, 1979; 57 FR 5329, Feb. 13, 1992]

§ 85.1808 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR part 2, subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a person or manufacturer must indicate clearly the items of information claimed confidential by marking, circling bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter

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has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B. of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34797, Aug. 27, 1985, as amended at 57 FR 5330, Feb. 13, 1992]

APPENDIX A TO SUBPART S OF PART 85— INTERPRETIVE RULING FOR § 85.1803— REMEDIAL PLANS

The purpose of this rule is to set forth EPA's interpretation regarding one aspect of a motor vehicle or motor vehicle engine manufacturer's recall liability under section 207(c)(1) of the Clean Air Act, 42 U.S.C. 7641(c)(1). This rule will provide guidance to vehicle and engine manufacturers to better enable them to submit acceptable remedial plans.

Section 207(c)(1) requires the Administrator to base a recall order on a determination that a substantial number of in-use vehicles or engines within a given class or category of vehicles or engines, although properly maintained and used, fail to conform to the regulations prescribed under section 202 when in actual use throughout their useful lives. After making such a determination, he shall require the manufacturer to submit a plan to remedy the nonconformity of any such vehicles or engines. The plan shall provide that the manufacturer will remedy, at the manufacturer's expense, all properly maintained and used vehicles which experienced the nonconformity during their useful lives regardless of their age or mileage at the time of repair.

(Secs. 207 and 301(a), Clean Air Act, as amended, 42 U.S.C. 7541 and 7601(a))

[45 FR 36398, May 30, 1980]

Subpart T—Emission Defect Reporting Requirements

AUTHORITY: Secs. 208(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 1857f-6(a) and 1857g(a)).

SOURCE: 42 FR 28128, June 2, 1977, unless otherwise noted.

§ 85.1901 Applicability.

The requirements of this subpart shall be applicable to all 1972 and later model year vehicles and engines. The requirement to report emission-related defects affecting a given class or category of vehicles or engines shall remain applicable for five years from the end of the model year in which such vehicles or engines were manufactured.

§ 85.1902 Definitions.

For the purposes of this subpart and unless otherwise noted:

(a) *Act* shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(b) The phrase emission-related defect shall mean a defect in design, materials, or workmanship in a device, system, or assembly described in the approved Application for Certification (required by 40 CFR 86.1843-01 and 86.1844-01, 40 CFR 86.098-22 and like provisions of subpart A of this part and 40 CFR part 86) which affects any parameter or specification enumerated in Appendix VIII of this part.

(c) The phrase *useful life* shall be given the meaning ascribed to it by section 202(d) of the Act and regulations promulgated thereunder.

(d) The phrase *Voluntary Emissions Recall* shall mean a repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emission-related defect for which direct notification of vehicle or engine owners has been provided.

(e) The phrase *ultimate purchaser* shall be given the meaning ascribed to it by section 214 of the Act.

(f) The term *manufacturer* shall be given the meaning ascribed to it by section 214 of the Act.

[42 FR 28128, June 2, 1977, as amended at 64 FR 23919, May 4, 1999]

§ 85.1903 Emissions defect information report.

(a) A manufacturer shall file a defect information report whenever, on the basis of data obtained subsequent to the effective date of these regulations:

(1) The manufacturer determines in accordance with procedures established

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has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34797, Aug. 27, 1985, as amended at 57 FR 5330, Feb. 13, 1992]

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The purpose of this rule is to set forth EPA's interpretation regarding one aspect of a motor vehicle or motor vehicle engine manufacturer's recall liability under section 207(c)(1) of the Clean Air Act, 42 U.S.C. 7641(c)(1). This rule will provide guidance to vehicle and engine manufacturers to better enable them to submit acceptable remedial plans.

Section 207(c)(1) requires the Administrator to base a recall order on a determination that a substantial number of in-use vehicles or engines within a given class or category of vehicles or engines, although properly maintained and used, fail to conform to the regulations prescribed under section 202 when in actual use throughout their useful lives. After making such a determination, he shall require the manufacturer to submit a plan to remedy the nonconformity of any such vehicles or engines. The plan shall provide that the manufacturer will remedy, at the manufacturer's expense, all properly maintained and used vehicles which experienced the nonconformity during their useful lives regardless of their age or mileage at the time of repair.

(Secs. 207 and 301(a), Clean Air Act, as amended, 42 U.S.C. 7541 and 7601(a))

[45 FR 36398, May 30, 1980]

Subpart T—Emission Defect Reporting Requirements

AUTHORITY: Secs. 208(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 1857f-6(a) and 1857g(a)).

SOURCE: 42 FR 28128, June 2, 1977, unless otherwise noted.

§ 85.1901 Applicability.

The requirements of this subpart shall be applicable to all 1972 and later model year vehicles and engines. The requirement to report emission-related defects affecting a given class or category of vehicles or engines shall remain applicable for five years from the end of the model year in which such vehicles or engines were manufactured.

§ 85.1902 Definitions.

For the purposes of this subpart and unless otherwise noted:

(a) *Act* shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(b) The phrase emission-related defect shall mean a defect in design, materials, or workmanship in a device, system, or assembly described in the approved Application for Certification (required by 40 CFR 86.1843-01 and 86.1844-01, 40 CFR 86.098-22 and like provisions of subpart A of this part and 40 CFR part 86) which affects any parameter or specification enumerated in Appendix VIII of this part.

(c) The phrase *useful life* shall be given the meaning ascribed to it by section 202(d) of the Act and regulations promulgated thereunder.

(d) The phrase *Voluntary Emissions Recall* shall mean a repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emission-related defect for which direct notification of vehicle or engine owners has been provided.

(e) The phrase *ultimate purchaser* shall be given the meaning ascribed to it by section 214 of the Act.

(f) The term *manufacturer* shall be given the meaning ascribed to it by section 214 of the Act.

[42 FR 28128, June 2, 1977, as amended at 64 FR 23919, May 4, 1999]

§ 85.1903 Emissions defect information report.

(a) A manufacturer shall file a defect information report whenever, on the basis of data obtained subsequent to the effective date of these regulations:

(1) The manufacturer determines in accordance with procedures established

by the manufacturer to identify safety related defects (pursuant to 15 U.S.C. 1381 et seq., as amended) that a specific emission-related defect exists; and

(2) That the specific emission-related defect exists in twenty-five or more vehicles or engines of the same model year.

No report shall be filed under this paragraph for any emission-related defect corrected prior to the sale of the affected vehicles or engines to an ultimate purchaser.

(b) Defect information reports required under paragraph (a) of this section shall be submitted not more than 15 working days after an emission-related defect is found to affect twenty-five vehicles or engines of the same model year. Items of information required by paragraph (c) of this section that are either not available within that period or are significantly revised shall be submitted as they become available.

(c) Except as provided in paragraph (b) of this section, each defect report shall contain the following information in substantially the format outlined below:

(1) The manufacturer's corporate name.

(2) A description of the defect.

(3) A description of each class or category of vehicles or engines potentially affected by the defect including make, model, model year, and such other information as may be required to identify the vehicles or engines affected.

(4) For each class or category of vehicle or engine described in response to paragraph (c)(3) of this section, the following shall also be provided:

(i) The number of vehicles or engines known or estimated to have the defect and an explanation of the means by which this number was determined.

(ii) The address of the plant(s) at which the potentially defective vehicles or engines were produced.

(5) An evaluation of the emissions impact of the defect and a description of any driveability problems which a defective vehicle might exhibit.

(6) Available emissions data which relate to the defect.

(7) An indication of any anticipated manufacturer follow-up.

§ 85.1904 Voluntary emissions recall report; quarterly reports.

(a) When any manufacturer initiates a voluntary emissions recall campaign involving twenty-five or more vehicles or engines, the manufacturer shall submit a report describing the manufacturer's voluntary emissions recall plan as prescribed by this section within 15 working days of the date owner notification was begun. The report shall contain the following:

(1) A description of each class or category of vehicle or engine recalled including the number of vehicles to be recalled, the model year, the make, the model, and such other information as may be required to identify the vehicles or engines recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the vehicles or engines affected by the emission-related defect.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the method by which they will be notified.

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's reasons for imposing any such condition, and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with any such condition.

(5) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the defect, and the designation of facilities at which the defect can be remedied.

(6) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the defect.

(7) Three copies of the letters of notification to be sent to vehicle or engine owners.

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled.

(11) A sample of any label to be applied to vehicles or engines which participate in the voluntary recall campaign.

(b) Unless otherwise specified by the Administrator, the manufacturer shall report on the progress of the recall campaign by submitting subsequent reports for six consecutive quarters commencing with the quarter after the voluntary emissions recall campaign actually begins. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter. For each class or category of vehicle or engine subject to the voluntary emissions recall campaign, the quarterly report shall contain the:

(1) Emission recall campaign number, if any, designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the voluntary emissions recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the emission-related defect and an explanation of the means by which this number was determined.

(5) Number of vehicles or engines inspected pursuant to the voluntary emissions recall plan.

(6) Number of inspected vehicles found to be affected by the emission-related defect.

(7) Number of vehicles actually receiving repair under the remedial plan.

(8) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping, or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for remedial action due to a failure to properly maintain or use such vehicles or engines.

(10) Three copies of any service bulletins transmitted to dealers which relate to the defect to be corrected and which have not previously been reported.

(11) Three copies of all communications transmitted to vehicle or engine owners which relate to the defect to be corrected and which have not previously been submitted.

(c) If the manufacturer determines that any of the information requested in paragraph (b) of this section has changed or was incorrect, revised information and an explanatory note shall be submitted. Answers to paragraphs (b)(5), (6), (7), (8), and (9) of this section shall be cumulative totals.

(d) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, the names and addresses of vehicles or engine owners:

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the remedial plan; and

(3) Who were determined not to qualify for such remedial action when eligibility is conditioned on proper maintenance or use.

(e) The records described in paragraph (d) of this section shall be made available to the Administrator upon request.

§ 85.1905 Alternative report formats.

(a) Any manufacturer may submit a plan for making either of the reports required by §§ 85.1903 and 85.1904 on computer cards, magnetic tape or other

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machine readable format. The proposed plan shall be accompanied by sufficient technical detail to allow a determination that data requirements of these sections will be met and that the data in such format will be usable by EPA.

(b) Upon approval by the Administrator of the proposed reporting system, the manufacturer may utilize such system until otherwise notified by the Administrator.

§ 85.1906 Report filing: Record retention.

(a) The reports required by §§ 85.1903 and 85.1904 shall be sent to: Director, Manufacturers Operations Division (EN 340), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(b) The information gathered by the manufacturer to compile the reports required by § 85.1903 and § 85.1904 shall be retained for not less than five years from the date of the manufacture of the vehicles or engines and shall be made available to duly authorized officials of the EPA upon request.

[42 FR 28128, June 2, 1977, as amended at 44 FR 61962, Oct. 29, 1979]

§ 85.1907 Responsibility under other legal provisions preserved.

The filing of any report under the provisions of this subpart shall not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provision of law.

§ 85.1908 Disclaimer of production warranty applicability.

(a) The act of filing an Emission Defect Information Report pursuant to § 85.1903 is inconclusive as to the existence of a defect subject to the Production Warranty provided by section 207(a) of the Act.

(b) A manufacturer may include on each page of its Emission Defect Information Report a disclaimer stating that the filing of a Defect Information Report pursuant to these regulations is not conclusive as to the applicability of the Production Warranty provided by section 207(a) of the Act.

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§ 85.1909 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR part 2, subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted all confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

[50 FR 34798, Aug. 27, 1985]

Subpart U [Reserved]

Subpart V—Emissions Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

AUTHORITY: Secs. 203, 207, 208, and 301(a), Clean Air Act, as amended (42 U.S.C. 7522, 7541, 7542, and 7601(a)).

SOURCE: 45 FR 34839, May 22, 1980, unless otherwise noted.